

**Calendar No. 251**

103D CONGRESS  
1ST SESSION

**S. 540**

**[Report No. 103-168]**

**A BILL**

To improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

OCTOBER 28 (legislative day, OCTOBER 13), 1993

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 3), 1993

Mr. HEFLIN (for himself, Mr. GRASSLEY, Mr. BRYAN, Mr. CAMPBELL, Mr. COCHRAN, Mr. CONRAD, Mr. DECONCINI, Mr. DURENBERGER, Mr. INOUE, Mr. KOHL, Mr. ROTH, Mr. STEVENS, Mr. DASCHLE, Mr. SHELBY, Mr. REID, Mr. GORTON, Mr. PRESSLER, Mr. SIMPSON, Mr. GRAHAM, Mr. BURNS, Mr. PRYOR, Mr. MURKOWSKI, Mr. BINGAMAN, Mr. CRAIG, Mr. BUMPERS, Mr. HATFIELD, Mr. BAUCUS, and Mr. LOTT) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

OCTOBER 28 (legislative day, OCTOBER 13), 1993

Reported by Mr. BIDEN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

To improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4        (a) **SHORT TITLE IMPROVEMENT.**—This Act may be  
 5        cited as the “Bankruptcy Amendments Act of 1993”.

6        (b) **TABLE OF CONTENTS.**—The table of contents is  
 7        as follows:

Sec. 1. Short title; table of contents.

**TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION**

- Sec. 101. Expedited hearing on automatic stay.
- Sec. 102. Expedited filing of plans under chapter 11.
- Sec. 103. Expedited filing of plans under chapter 12.
- Sec. 104. Expedited procedure for reaffirmation of debts.
- Sec. 105. Powers of bankruptcy courts.
- Sec. 106. Participation by bankruptcy administrator at meetings of creditors and equity security holders.
- Sec. 107. Definition relating to eligibility to serve on chapter 11 committees.
- Sec. 108. Increased incentive compensation for trustees.
- Sec. 109. Dollar adjustments.
- Sec. 110. Premerger notification.
- Sec. 111. Allowance of creditor committee expenses.
- Sec. 112. Delay of repeal of chapter 12 (family farmers).
- Sec. 113. Judicial conference report.
- Sec. 114. Service of process.
- Sec. 115. Pension plan contributions.
- Sec. 116. Meetings of creditors and equity security holders.

**TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY**

- Sec. 201. Small business chapter.
- Sec. 202. Single asset real estate.
- Sec. 203. Aircraft equipment, vessels, and rolling stock equipment.
- Sec. 204. Unexpired leases of personal property in chapter 11 cases.
- Sec. 205. Protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal.
- Sec. 206. Protection of security interest in post-petition rents.
- Sec. 207. Anti-alienation.
- Sec. 208. Exemption.
- Sec. 209. Indenture trustee compensation.
- Sec. 210. Payment of Federal Internal Revenue taxes with borrowed funds.
- Sec. 211. Return of goods.
- Sec. 212. Exception to discharge.
- Sec. 213. Proceeds of money order agreements.
- Sec. 214. Limitation on liability of noninsider transferee for avoided transfer.
- Sec. 215. Perfection of purchase-money security interest.
- Sec. 216. Airport gate leases.

Sec. 217. Trustee duties.  
 Sec. 218. Payments.  
 Sec. 219. Seller's right to reclaim goods.  
 Sec. 220. Payment of insurance benefits to retired employees.

#### TITLE III—CONSUMER BANKRUPTCY ISSUES

Sec. 301. Period for curing default relating to principal residence.  
 Sec. 302. Nondischargeability of fine under chapter 13.  
 Sec. 303. Protection of child support and alimony.  
 Sec. 304. Bankruptcy petition preparers.  
 Sec. 305. Conversion or dismissal.  
 Sec. 306. Contents of plan.  
 Sec. 307. Stay of action against codebtor.  
 Sec. 308. Exemption for household goods.  
 Sec. 309. Professional fees.

#### TITLE IV—BANKRUPTCY REVIEW COMMISSION

Sec. 401. Short title.  
 Sec. 402. Establishment.  
 Sec. 403. Duties of the commission.  
 Sec. 404. Membership.  
 Sec. 405. Compensation of the commission.  
 Sec. 406. Staff of commission; experts and consultants.  
 Sec. 407. Powers of the commission.  
 Sec. 408. Report.  
 Sec. 409. Termination.  
 Sec. 410. Authorization of appropriations.

#### TITLE V—TECHNICAL CORRECTIONS

Sec. 501. Title 11, United States Code.  
 Sec. 502. Title 28, United States Code.

#### TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 601. Severability.  
 Sec. 602. Effective date; application of amendments.

## 1                   **TITLE I—IMPROVED**

## 2                   **BANKRUPTCY ADMINISTRATION**

### 3                   **SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.**

4                   The last sentence of section 362(e) of title 11, United  
 5 States Code, is amended—

6                   (1) by striking “commenced” and inserting  
 7                   “concluded”; and

1           (2) by inserting “, unless the 30-day period is  
 2           extended with the consent of the parties in interest  
 3           or for a specific time which the court finds is re-  
 4           quired by compelling circumstances” before the pe-  
 5           riod at the end.

6 **SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER**  
 7 **11.**

8           Section 1121(d) of title 11, United States Code, is  
 9           amended—

10           (1) by striking “On” and inserting “(1) Subject  
 11           to paragraph (2), on”; and

12           (2) by adding at the end the following new  
 13           paragraph:

14           “(2) Under paragraph (1)—

15           “(A) the 120-day period referred to in this sec-  
 16           tion may not be increased beyond the 1-year period  
 17           beginning on the date of the order for relief under  
 18           this chapter; and

19           “(B) the 180-day period referred to in this sec-  
 20           tion may not be increased beyond the 425-day period  
 21           beginning on the date of the order for relief under  
 22           this chapter,

23           unless the need for such an increase is attributable to cir-  
 24           cumstances for which the debtor should not justly be held  
 25           accountable.”.

1 **SEC. 103. EXPEDITED FILING OF PLANS UNDER CHAPTER**  
 2 **12.**

3 Section 1221 of title 11, United States Code, is  
 4 amended by striking “an extension is substantially justi-  
 5 fied” and inserting “the need for an extension is attrib-  
 6 utable to circumstances for which the debtor should not  
 7 justly be held accountable”.

8 **SEC. 104. EXPEDITED PROCEDURE FOR REAFFIRMATION**  
 9 **OF DEBTS.**

10 (a) REAFFIRMATION.—Section 524(c) of title 11,  
 11 United States Code, is amended—

12 (1) in paragraph (2)—

13 (A) by inserting “(A)” after “(2)”;

14 (B) by adding “and” at the end; and

15 (C) by inserting after subparagraph (A),  
 16 as designated by subparagraph (A), the follow-  
 17 ing new subparagraph:

18 “(B) such agreement contains a clear and  
 19 conspicuous statement that advises the debtor  
 20 that the agreement is not required under this  
 21 title, under nonbankruptcy law, or under any  
 22 agreement that is not in accordance with the  
 23 provisions of this subsection;” and

24 (2) in paragraph (3)—

1           (A) in the matter preceding subparagraph  
 2           (A) by striking “such agreement” the last place  
 3           it appears;

4           (B) in subparagraph (A)—

5               (i) by inserting “such agreement”  
 6               after “(A)”;

7               (ii) by striking “and” at the end; and

8           (C) in subparagraph (B)—

9               (i) by inserting “such agreement”  
 10              after “(B)”;

11              (ii) by adding “and” at the end; and

12           (3) by adding at the end the following new sub-  
 13           paragraph:

14               “(C) the attorney fully advised the debtor  
 15               of the legal effect and consequences of—

16                   “(i) an agreement of the kind de-  
 17                   scribed in this subsection; and

18                   “(ii) any default under such an agree-  
 19                   ment;”.

20           (b) EFFECT OF DISCHARGE.—The third sentence of  
 21           section 524(d) of title 11, United States Code, is amended  
 22           in the matter preceding paragraph (1) by inserting “and  
 23           was not represented by an attorney during the course of  
 24           negotiating the agreement” after “this section”.

1 **SEC. 105. POWERS OF BANKRUPTCY COURTS.**

2 (a) STATUS CONFERENCES.—Section 105 of title 11,  
3 United States Code, is amended by adding at the end the  
4 following new subsection:

5 “(d) The court, on its own motion or on the motion  
6 of any party in interest, may—

7 “(1) hold a status conference regarding any  
8 case or proceeding under this title after notice to the  
9 parties in interest; and

10 “(2) unless it would be inconsistent with an-  
11 other provision of this title or with applicable Bank-  
12 ruptcy Rules, issue an order at any such conference  
13 prescribing such limitations and conditions as the  
14 court deems to be appropriate to ensure that the  
15 case is handled expeditiously and economically, in-  
16 cluding an order that—

17 “(A) sets the date by which the debtor  
18 must accept or reject an executory contract or  
19 unexpired lease; or

20 “(B) in a case under chapter 11—

21 “(i) sets a date by which the debtor,  
22 or the trustee if one has been appointed,  
23 shall file a disclosure statement and plan;

24 “(ii) sets a date by which the debtor,  
25 or the trustee if one has been appointed,  
26 shall solicit acceptances of a plan;



1           ~~“(iii) sets the date by which a party~~  
 2           ~~in interest other than a debtor may file a~~  
 3           ~~plan;~~

4           ~~“(iv) fixes the notice to be provided~~  
 5           ~~regarding the hearing on approval of the~~  
 6           ~~disclosure statement;~~

7           ~~“(v) provides that the hearing on ap-~~  
 8           ~~proval of the disclosure statement may be~~  
 9           ~~combined with the hearing on confirmation~~  
 10          ~~of the plan; and~~

11          ~~“(vi) directs the use of standard-form~~  
 12          ~~disclosure statements, plans, or other~~  
 13          ~~forms that have been adopted by the~~  
 14          ~~court.”.~~

15          ~~(b) ABSTENTION.—Section 1334 of title 28, United~~  
 16          ~~States Code, is amended—~~

17               ~~(1) by redesignating subsection (d) as sub-~~  
 18               ~~section (e);~~

19               ~~(2) in the second sentence of subsection (c)(2)~~  
 20               ~~by striking “Any” and inserting the following:~~

21               ~~“(d) Any”; and~~

22               ~~(3) in the first sentence of subsection (d), as~~  
 23               ~~designated by paragraph (2), by inserting “(other~~  
 24               ~~than a decision not to abstain in a proceeding de-~~  
 25               ~~scribed in subsection (c)(2))” after “subsection”.~~

1       (c) ~~ESTABLISHMENT, OPERATION, AND TERM-~~  
 2 ~~NATION OF BANKRUPTCY APPELLATE PANEL SERVICE.—~~  
 3 ~~Section 158(b) of title 28, United States Code, is amend-~~  
 4 ~~ed—~~

5               (1) by striking paragraphs (3) and (4);

6               (2) by redesignating paragraph (2) as para-  
 7 graph (4);

8               (3) by striking paragraph (1) and inserting the  
 9 following new paragraphs:

10       “(1)(A) Except as provided in subparagraph (B), the  
 11 judicial council of a circuit shall establish a bankruptcy  
 12 appellate panel service composed of bankruptcy judges of  
 13 the districts in the circuit who are appointed by the judi-  
 14 cial council in accordance with paragraph (3), to hear and  
 15 determine, with the consent of all parties to an appeal,  
 16 appeals under subsection (a).

17       “(B)(i) The judicial council of a circuit need not es-  
 18 tablish a bankruptcy appellate panel service if the judicial  
 19 council finds that—

20               “(I) there are insufficient judicial resources  
 21 available in the circuit; or

22               “(II) establishment of such a service would re-  
 23 sult in undue delay or increased cost to parties in  
 24 cases under title 11.

1       “(ii) Not later than 90 days after making a finding  
2 under clause (i), the judicial council shall submit to the  
3 Judicial Conference a report containing the factual basis  
4 of the finding.

5       “(2)(A) A judicial council may reconsider a finding  
6 described in paragraph (1)(B) at any time.

7       “(B) On the request of a majority of the district  
8 judges in a circuit for which a bankruptcy appellate panel  
9 service is established under paragraph (1), made after the  
10 expiration of the 1-year period beginning on the date on  
11 which the service is established, the judicial council of the  
12 circuit shall determine whether a circumstance described  
13 in paragraph (1)(B)(i) (I) or (II) exists.

14       “(C) On its own motion, after the expiration of the  
15 3-year period beginning on the date on which a bank-  
16 ruptcy appellate panel service is established under para-  
17 graph (1), the judicial council of a circuit may determine  
18 whether a circumstance described in paragraph (1)(B)(i)  
19 (I) or (II) exists.

20       “(D) If the judicial council of a circuit finds that a  
21 circumstance described in paragraph (1)(B)(i) (I) or (II)  
22 exists, the judicial council may provide for the completion  
23 of the appeals then pending before a bankruptcy appellate  
24 panel service and the orderly termination of the service.

1       “(3) Bankruptcy judges appointed under paragraph  
2 (1) shall be appointed for a term of 2 years and may be  
3 reappointed under that paragraph.”; and

4               (4) by inserting after paragraph (4), as redesignated by paragraph (2), the following new paragraphs:

7       “(5) An appeal to be heard under this subsection  
8 shall be heard by a panel of 3 members of the bankruptcy  
9 appellate panel service, except that a member of the service may not hear an appeal originating in the district for  
10 which the member is appointed or designated under section 152.

13       “(6) Appeals may not be heard under this subsection  
14 by a panel of the bankruptcy appellate panel service unless  
15 the district judges for the district in which the appeals  
16 occur, by majority vote, have authorized the service to  
17 hear and determine appeals originating in that district.”.

18       (d) APPEALS TO BE HEARD BY BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158 of title 28, United States Code, is amended—

21               (1) in subsection (c) by striking “(c) An appeal” and inserting the following:

23       “(c)(1) Subject to subsection (b), an appeal under  
24 subsection (a) shall be heard by a 3-judge panel of the

1 bankruptcy appellate panel service established under sub-  
 2 section (b)(1) unless—

3 “(A) the appellant elects, at the time of filing  
 4 the appeal; or

5 “(B) any other party elects, not later than 30  
 6 days after service of notice of the appeal,  
 7 to have the appeal heard by the district court.

8 “(2) An appeal”.

9 (e) RULES OF PROCEDURE AND EVIDENCE; METHOD  
 10 OF PRESCRIBING.—Section 2073 of title 28, United  
 11 States Code, is amended—

12 (1) in subsection (a)(2) by striking “section  
 13 2072” and inserting “sections 2072 and 2075”; and

14 (2) in subsections (d) and (e) by inserting “or  
 15 2075” after “2072” each place it appears.

16 (f) EFFECTIVE DATE OF BANKRUPTCY RULES.—  
 17 Section 2075 of title 28, United States Code, is amended  
 18 by striking “ninety days” and inserting “180 days”.

19 **SEC. 106. PARTICIPATION BY BANKRUPTCY ADMINIS-**  
 20 **TRATOR AT MEETINGS OF CREDITORS AND**  
 21 **EQUITY SECURITY HOLDERS.**

22 (a) PRESIDING OFFICER.—A bankruptcy adminis-  
 23 trator appointed under section 302(d)(3)(I) of the Bank-  
 24 ruptcy Judges, United States Trustees, and Family Farm-  
 25 er Bankruptcy Act of 1986 (28 U.S.C. 581 note; 100 Stat.

1 3123), or the bankruptcy administrator's designee, may  
 2 preside at—

3           (1) a meeting of creditors convened under sec-  
 4 tion 341(a) of title 11, United States Code; and

5           (2) a meeting of equity security holders con-  
 6 vened under section 341(b) of title 11, United States  
 7 Code.

8       (b) EXAMINATION OF THE DEBTOR.—The bank-  
 9 ruptcy administrator or the bankruptcy administrator's  
 10 designee may examine the debtor at the meeting of credi-  
 11 tors and may administer the oath required under section  
 12 343 of title 11, United States Code.

13 **SEC. 107. DEFINITION RELATING TO ELIGIBILITY TO SERVE**  
 14 **ON CHAPTER 11 COMMITTEES.**

15       The definition of “person” in section 101 of title 11,  
 16 United States Code, as amended by section 501(a), is  
 17 amended to read as follows:

18           “‘person’ includes an individual, partnership,  
 19 and corporation, but does not include a govern-  
 20 mental unit, except that a governmental unit that—

21                   “(A) acquires an asset from a person—

22                           “(i) as a result of the operation of a  
 23 loan guarantee agreement; or

24                           “(ii) as receiver or liquidating agent  
 25 of a person;

1           “(B) is a guarantor of a pension benefit  
2           payable by or on behalf of the debtor or an af-  
3           filiate of the debtor; or

4           “(C) is the legal or beneficial owner of an  
5           asset of—

6           “(i) an employee pension benefit plan  
7           that is a governmental plan, as defined in  
8           section 414(d) of the Internal Revenue  
9           Code of 1986; or

10          “(ii) an eligible deferred compensation  
11          plan, as defined in section 457(b) of the  
12          Internal Revenue Code of 1986,

13          shall be considered, for purposes of section 1102, to  
14          be a person with respect to such asset or such bene-  
15          fit.”.

16 **SEC. 108. INCREASED INCENTIVE COMPENSATION FOR**  
17 **TRUSTEES.**

18          Section 326(a) of title 11, United States Code, is  
19          amended by striking “fifteen” and all that follows through  
20          “\$3,000” the last place it appears and inserting “25 per-  
21          cent on the first \$5,000 or less, 10 percent on any amount  
22          in excess of \$5,000 but not in excess of \$50,000, 5 percent  
23          on any amount in excess of \$50,000 but not in excess of  
24          \$1,000,000, and reasonable compensation not to exceed  
25          3 percent of such moneys in excess of \$1,000,000”.

1 **SEC. 109. DOLLAR ADJUSTMENTS.**

2 (a) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—

3 Section 109(e) of title 11, United States Code, is amend-  
4 ed—

5 (1) by striking “unsecured debts of less than  
6 \$100,000 and noncontingent, liquidated, secured  
7 debts of less than \$350,000” and inserting “debts of  
8 less than \$1,000,000”; and

9 (2) by striking “unsecured debts that aggregate  
10 less than \$100,000 and noncontingent, liquidated,  
11 secured debts of less than \$350,000” and inserting  
12 “debts in the aggregate of less than \$1,000,000”.

13 (b) INVOLUNTARY CASES.—Section 303(b) of title  
14 11, United States Code, is amended—

15 (1) in paragraph (1) by striking “\$5,000” and  
16 inserting “\$10,000”; and

17 (2) in paragraph (2) by striking “\$5,000” and  
18 inserting “\$10,000”.

19 (c) PRIORITIES.—Section 507(a) of title 11, United  
20 States Code, is amended—

21 (1) in paragraph (3)(B) by striking “\$2,000”  
22 and inserting “\$4,000”;

23 (2) in paragraph (4)(B)(i) by striking “\$2,000”  
24 and inserting “\$4,000”;

25 (3) in paragraph (5) by striking “\$2,000” and  
26 inserting “\$4,000”; and



1           (4) in paragraph (6) by striking “\$900” and in-  
2       serting “\$1,800”.

3       ~~(d) EXEMPTIONS.—~~Section 522(d) of title 11, United  
4       States Code, is amended—

5           (1) in paragraph (1) by striking “\$7,500” and  
6       inserting “\$15,000”;

7           (2) in paragraph (2) by striking “\$1,200” and  
8       inserting “\$2,400”;

9           (3) in paragraph (3)—

10           (A) by striking “\$200” and inserting  
11       “\$400”; and

12           (B) by striking “\$4,000” and inserting  
13       “\$8,000”;

14           (4) in paragraph (4) by striking “\$500” and in-  
15       serting “\$1,000”;

16           (5) in paragraph (5)—

17           (A) by striking “\$400” and inserting  
18       “\$800”; and

19           (B) by striking “\$3,750” and inserting  
20       “\$7,500”;

21           (6) in paragraph (6) by striking “\$750” and in-  
22       serting “\$1,500”;

23           (7) in paragraph (8) by striking “\$4,000” and  
24       inserting “\$8,000”; and

1           (8) in paragraph (11)(D) by striking “\$7,500”  
 2           and inserting “\$15,000”.

3           ~~(e) APPOINTMENT OF EXAMINER IN CERTAIN CIR-~~  
 4 ~~CUMSTANCES.—Section 1104(b)(2) of title 11, United~~  
 5 ~~States Code, is amended by striking “\$5,000,000” and in-~~  
 6 ~~serting “\$10,000,000”.~~

7   **SEC. 110. PREMERGER NOTIFICATION.**

8           Section 363(b)(2) (A) and (B) of title 11, United  
 9 States Code, are amended to read as follows:

10           “(A) notwithstanding subsection (a) of  
 11           that section, the notification required to be  
 12           given by the debtor shall be given by the trust-  
 13           ee; and

14           “(B) notwithstanding subsection (b) of  
 15           that section, the required waiting period shall  
 16           end on the 10th day after the date of receipt  
 17           of the notification, unless the waiting period is  
 18           extended—

19           “(i) pursuant to subsection (e)(2) or  
 20           (g)(2) of that section; or

21           “(ii) by the court, after notice and a  
 22           hearing.”.

1 **SEC. 111. ALLOWANCE OF CREDITOR COMMITTEE EX-**  
 2 **PENSES.**

3 Section 503(b) of title 11, United States Code, is  
 4 amended—

5 (1) by striking “and” at the end of paragraph  
 6 (5);

7 (2) by striking the period at the end of para-  
 8 graph (6) and inserting “; and”; and

9 (3) by adding at the end the following new  
 10 paragraph:

11 “(7) the actual, necessary expenses incurred by  
 12 a member of a committee appointed under section  
 13 1102 in the performance of the duties of the com-  
 14 mittee, other than claims for compensation for serv-  
 15 ices rendered as a member of the committee.”.

16 **SEC. 112. DELAY OF REPEAL OF CHAPTER 12 (FAMILY**  
 17 **FARMERS).**

18 Section 302(f) of the Bankruptcy Judges, United  
 19 States Trustees, and Family Farmer Bankruptcy Act of  
 20 1986 (11 U.S.C. 1201 note; 100 Stat. 3124) is amended  
 21 by striking “October 1, 1993” and inserting “October 1,  
 22 1998”.

23 **SEC. 113. JUDICIAL CONFERENCE REPORT.**

24 Not later than 180 days after the date of enactment  
 25 of this Act, the Judicial Conference of the United States

1 shall produce and submit to the appropriate committees  
2 of Congress a report containing a description of—

3           (1) the efforts of the Federal judiciary to auto-  
4 mate and computerize the Federal bankruptcy  
5 courts;

6           (2) the types of information that are currently  
7 available to Congress and the public regarding the  
8 number, size, and types of bankruptcy cases filed in  
9 the Federal courts;

10           (3) the types of additional information that the  
11 Federal judiciary believes are necessary and desir-  
12 able to enhance its ability to manage the affairs of  
13 the bankruptcy system; and

14           (4) the projected timetable for being able to  
15 supply those additional types of information to Con-  
16 gress and the public in the future.

17 **SEC. 114. SERVICE OF PROCESS.**

18 Rule 7004(b)(3) of the Bankruptcy Rules is amend-  
19 ed—

20           (1) by inserting “, by certified or registered  
21 mail,” after “complaint”; and

22           (2) by inserting “, by certified or registered  
23 mail,” after “copy”.

1 **SEC. 115. PENSION PLAN CONTRIBUTIONS.**

2 ~~(a) TREATMENT AS ADMINISTRATIVE EXPENSES.—~~

3 Section 503(b) of title 11, United States Code, as amend-  
4 ed by section 405, is amended—

5 (1) by striking “and” at the end of paragraph  
6 (6);

7 (2) by striking the period at the end of para-  
8 graph (7) and inserting “; and”; and

9 (3) by adding at the end the following new  
10 paragraph:

11 “(8) minimum funding contributions to an em-  
12 ployee pension benefit plan for which the debtor is  
13 liable, which accrue on or after the date of com-  
14 mencement of the case (regardless of the time such  
15 contribution comes due), under section 412 of the  
16 Internal Revenue Code of 1986 and section 302 of  
17 the Employee Retirement Income Security Act of  
18 1974 (29 U.S.C. 1082).”.

19 ~~(b) PAYMENT OR POSTPONEMENT OF MINIMUM~~  
20 ~~FUNDING CONTRIBUTIONS DUE PENSION PLANS.—~~

21 (1) ~~IN GENERAL.~~—Subchapter I of chapter 11  
22 of title 11, United States Code, is amended by add-  
23 ing at the end the following new section:

1 **“§ 1115. Contributions to certain employee pension**  
 2 **benefit plans**

3 ~~“(a) TIMELY PAYMENT OF CONTRIBUTIONS.—Ex-~~  
 4 ~~cept as provided in subsection (b), the debtor in posses-~~  
 5 ~~sion, or the trustee if one has been appointed, shall make~~  
 6 ~~any minimum funding contributions for which the debtor~~  
 7 ~~is liable, which accrue on or after the date of commence-~~  
 8 ~~ment of the case (regardless of the time such contribution~~  
 9 ~~comes due), under section 412 of the Internal Revenue~~  
 10 ~~Code of 1986 and section 302 of the Employee Retirement~~  
 11 ~~Income Security Act of 1974 (29 U.S.C. 1082).~~

12 ~~“(b) POSTPONEMENT OF CONTRIBUTIONS.—(1)(A)~~  
 13 ~~Subject to paragraph (2), the court may, on motion of any~~  
 14 ~~party and after notice and hearing, determine that the~~  
 15 ~~making of all or part of a minimum funding contribution~~  
 16 ~~required to be made by a debtor to a pension plan may~~  
 17 ~~be postponed until a date that is not later than—~~

18 ~~“(i) the effective date of a plan of reorganiza-~~  
 19 ~~tion confirmed under section 1129; or~~

20 ~~“(ii) if the case is converted to a case under~~  
 21 ~~chapter 7, the date on which a distribution of prop-~~  
 22 ~~erty is made under section 726.~~

23 ~~“(B) In making a determination under subparagraph~~  
 24 ~~(A), the court shall take into account the requirements~~  
 25 ~~of the estate.~~

1       “(C) Interest shall accrue on the amount of a con-  
 2       tribution that is postponed from the date on which the  
 3       contribution became due to the date of payment at the  
 4       rate specified in section 412(m) of the Internal Revenue  
 5       Code of 1986 and section 302(e) of the Employee Retire-  
 6       ment Income Security Act of 1974 (29 U.S.C. 1082(e)).

7       “(2)(A) Before permitting payment of all or part of  
 8       a contribution to be postponed, the court shall grant secu-  
 9       rity to the pension plan and, in the case of a plan covered  
 10      under section 4021 of the Employee Retirement Security  
 11      Act of 1974 (29 U.S.C. 1321), the Pension Benefit Guar-  
 12      anty Corporation, for the amount of a contribution that  
 13      is postponed, affording adequate protection in accordance  
 14      with section 364(d)(1)(B).

15      “(B) If the debtor in possession or trustee fails to  
 16      make a postponed contribution on the date on which it  
 17      is to be made under an order issued under paragraph (1),  
 18      the pension plan shall be permitted to foreclose on the se-  
 19      curity provided under subparagraph (A).

20      “(c) NOTICE.—The administrator of the pension plan  
 21      and, in the case of a plan covered under section 4021 of  
 22      the Employee Retirement Income Security Act of 1974  
 23      (29 U.S.C. 1321), the Pension Benefit Guaranty Corpora-  
 24      tion, shall be given notice of and may participate in any

1 hearing seeking postponement of a contribution or fore-  
 2 closure under this section.”.

3       ~~(2) TECHNICAL AMENDMENT.~~—The chapter  
 4 analysis for chapter 11 of title 11, United States  
 5 Code, is amended by inserting after the item for sec-  
 6 tion 1114 the following new item:

“1115. Contributions to certain employee pension benefit plans.”.

7       ~~(c) CLARIFICATION OF EXISTING LAW.~~—

8       ~~(1) APPLICATION OF AMENDMENT.~~—The  
 9 amendment of section 550 of title 11, United States  
 10 Code, made by section 214 shall apply with respect  
 11 to a transfer to a pension plan that is subject to the  
 12 minimum funding requirements of section 412 of the  
 13 Internal Revenue Code of 1986 and section 302 of  
 14 the Employee Retirement Income Security Act of  
 15 1974 ~~(29 U.S.C. 1082)~~ only if the transfer is the  
 16 subject of a motion or proceeding seeking avoidance  
 17 of the transfer that is filed on or after the date of  
 18 passage of this Act in the Senate.

19       ~~(2) PURPOSE TO CLARIFY.~~—~~(A)~~ In making the  
 20 amendments made by subsections (a) and (b), it is  
 21 the purpose of Congress to clarify the meaning of  
 22 the provisions that are amended as they existed  
 23 prior to the date of enactment of this Act.

24       ~~(B)~~ The amendments made by subsections (a)  
 25 and ~~(b)~~ shall not be applied so as to supersede or



1       alter any agreement or understanding (or modifica-  
 2       tions thereto before or after enactment) regarding a  
 3       debtor's minimum funding contributions entered into  
 4       among a debtor, the Internal Revenue Service, and  
 5       the Pension Benefit Guaranty Corporation prior to  
 6       the date of enactment of this Act. If any agreement  
 7       or understanding referenced in the preceding sen-  
 8       tence is set aside or not implemented because of the  
 9       act or omission of the Pension Benefit Guaranty  
 10      Corporation, the law applicable to all matters in that  
 11      proceeding shall be determined without regard to  
 12      subsections (a) or (b).

13   **SEC. 116. MEETINGS OF CREDITORS AND EQUITY SECURITY**  
 14                   **HOLDERS.**

15       Section 341 of title 11, United States Code, is  
 16   amended by adding at the end the following new sub-  
 17   section:

18       “(d) Prior to the conclusion of the meeting of credi-  
 19   tors or equity security holders, the United States trustee  
 20   shall orally examine the debtor under oath and make rec-  
 21   ommendations on a preserved record regarding the debt-  
 22   or's knowledge of—

23           “(1) the potential consequences of seeking a  
 24   discharge in bankruptcy, including the effects on  
 25   credit history;

1           ~~“(2) the debtor’s ability to file a petition under~~  
 2           ~~a different chapter of this title;~~

3           ~~“(3) the effect of receiving a discharge of debts~~  
 4           ~~under this title;~~

5           ~~“(4) the effect of reaffirming a debt, including~~  
 6           ~~the debtor’s knowledge of the provisions of section~~  
 7           ~~524(d);~~

8           ~~“(5) the debtor’s duties under section 521; and~~

9           ~~“(6) the potential penalties and fines for com-~~  
 10          ~~mitting fraud or other abuses of this title.”.~~

## 11   **TITLE II—COMMERCIAL ISSUES** 12           **IN BANKRUPTCY**

### 13   ~~SEC. 201. SMALL BUSINESS CHAPTER.~~

14          ~~(a) DEFINITION.—Section 101 of title 11, United~~  
 15          ~~States Code, is amended by inserting in its proper alpha-~~  
 16          ~~betical position the following new definition:~~

17           ~~“ ‘small business’ means a person engaged in~~  
 18           ~~commercial or business activities (but does not in-~~  
 19           ~~clude a person whose primary activity is the business~~  
 20           ~~of owning or operating real property and activities~~  
 21           ~~incidental thereto) whose aggregate liquidated se-~~  
 22           ~~cured and unsecured debts as of the date of the peti-~~  
 23           ~~tion do not exceed \$2,500,000.”.~~

1       (b) WHO MAY BE A DEBTOR UNDER CHAPTER 10.—

2       Section 109 is amended by adding at the end the following  
3       new subsection:

4       “(h) Only a small business may be a debtor under  
5       chapter 10.”.

6       (c) TEMPORARY CHAPTER APPLICABLE TO SMALL  
7       BUSINESSES.—Title 11, United States Code, is amended  
8       by inserting after chapter 9 the following new chapter:

9       **“CHAPTER 10—SMALL BUSINESSES**

          “SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

          “Sec.

          “1001. Definitions for this chapter.

          “1002. Commencement of case.

          “1003. Trustee.

          “1004. Rights and powers of debtor.

          “1005. Removal of debtor as debtor-in-possession.

          “1006. Property of the estate.

          “1007. Conversion or dismissal.

          “SUBCHAPTER H—THE PLAN

          “1021. Filing of plan.

          “1022. Contents of plan.

          “1023. Postpetition disclosure and solicitation.

          “1024. Modification of plan before confirmation.

          “1025. Confirmation hearing.

          “1026. Confirmation of plan.

          “1027. Payments.

          “1028. Effect of confirmation.

          “1029. Modification of plan after confirmation.

          “1030. Revocation of order of confirmation.

10       **“Subchapter I—Officers, Administration, and**  
11       **the Estate**

12       **“§ 1001. Definitions for this chapter**

13       “‘In this chapter, ‘disposable income’ means income  
14       that is received by a debtor and that is not reasonably  
15       necessary to be expended for the payment of expenditures

1 necessary for the continuation, preservation, and oper-  
 2 ation of the debtor's business.

3 **~~“§ 1002. Commencement of case~~**

4 ~~“(a) ELECTION BY DEBTOR.—A person that is eligi-~~  
 5 ~~ble to be a small business debtor may commence a case~~  
 6 ~~under this chapter by filing a voluntary petition electing~~  
 7 ~~to be treated as a small business.~~

8 ~~“(b) CONVERSION.—~~

9 ~~“(1) THIS CHAPTER TO CHAPTER 11.—Upon~~  
 10 ~~the motion of a party in interest, and after notice~~  
 11 ~~and a hearing, the court may determine that a per-~~  
 12 ~~son subject to an order for relief electing treatment~~  
 13 ~~under this chapter does not qualify as a small busi-~~  
 14 ~~ness, and that the case shall be converted to a case~~  
 15 ~~under chapter 11, 12, or 13.~~

16 ~~“(2) COMPENSATION OF TRUSTEE.—Prior to~~  
 17 ~~the court's conversion of a case under this section,~~  
 18 ~~the court shall charge upon and require to be paid~~  
 19 ~~from the estate such compensation as the court finds~~  
 20 ~~reasonable under the circumstances to compensate~~  
 21 ~~the trustee appointed and serving under section~~  
 22 ~~1003.~~

23 **~~“§ 1003. Trustee~~**

24 ~~“(a) PERSON TO SERVE.—If the United States trust-~~  
 25 ~~ee has appointed a person under section 586(b) of title~~

1 28 to serve as a standing trustee in cases under this chap-  
 2 ter and if that person qualifies as a trustee under section  
 3 322, that person shall serve as a trustee in any case filed  
 4 under this chapter. If such a person has not been ap-  
 5 pointed, the United States trustee shall appoint one disin-  
 6 terested person to serve as trustee in the case or the Unit-  
 7 ed States trustee may serve as trustee in the case.

8 “(b) DUTIES.—The trustee shall—

9 “(1) perform the duties described in section  
 10 704 (2), (3), (5), (6), (7), and (9);

11 “(2) perform the duties described in section  
 12 1106(a) (3) and (4) if the court, for cause and on  
 13 a request of a party in interest, the trustee, or the  
 14 United States trustee, so orders;

15 “(3) appear and be heard at any hearing that  
 16 concerns—

17 “(A) the value of property subject to a  
 18 lien;

19 “(B) the operation of the business activity  
 20 of the person by the debtor;

21 “(C) the filing of a plan and the approval  
 22 of a disclosure statement;

23 “(D) confirmation of a plan;

24 “(E) modification of a plan after confirma-  
 25 tion; or

1           “(F) the sale of property of the estate;

2           “(4) ensure that the debtor timely files a plan  
3       and disclosure statement;

4           “(5) ensure that the debtor commences making  
5       timely payments required by a confirmed plan;

6           “(6) if the debtor ceases to be a debtor-in-pos-  
7       session, perform the duties described in sections  
8       704(8) and 1106(a) (1), (2), (6), and (7);

9           “(7) investigate the financial affairs of the  
10      debtor including, but not limited to, the proper use  
11      of disposable income;

12          “(8) file and serve the report required by sec-  
13      tion 1029(d); and

14          “(9) file such motions as are appropriate under  
15      section 1029.

16   **“§ 1004. Rights and powers of debtor**

17      “Subject to such limitations as the court may pre-  
18      scribe, a debtor-in-possession shall have all the rights,  
19      other than the right to compensation under section 330,  
20      and powers, and shall perform all the functions and duties,  
21      except the duties described in section 1106(a) (3) and (4),  
22      of a trustee serving in a case under chapter 11, including  
23      operating the debtor’s business activities.

1 **“§ 1005. Removal of debtor as debtor-in-possession**

2 “(a) ORDER FOR CAUSE.—On request of a party in  
3 interest, and after notice and a hearing, the court shall  
4 order that the debtor shall not be a debtor-in-possession  
5 if cause, including fraud, dishonesty, incompetence, or  
6 gross mismanagement of the affairs of the debtor, either  
7 before or after the commencement of the case, is shown.

8 “(b) REINSTATEMENT.—On request of a party in in-  
9 terest, and after notice and a hearing, the court may rein-  
10 state the debtor-in-possession.

11 **“§ 1006. Property of the estate**

12 “(a) PROPERTY INCLUDED.—Property of the estate  
13 includes, in addition to property described in section 541,  
14 all property of the kind specified in that section that the  
15 debtor acquires after the commencement of the case but  
16 before the case is closed, dismissed, or converted to a case  
17 under chapter 7, whichever comes first.

18 “(b) POSSESSION.—Except as provided in section  
19 1005 or in a confirmed plan or order confirming a plan,  
20 a debtor shall remain in possession of all property of the  
21 estate.

22 **“§ 1007. Conversion or dismissal**

23 “(a) CONVERSION BY DEBTOR.—A debtor may con-  
24 vert a case under this chapter to a case under chapter  
25 7 at any time if the debtor may be a debtor under that

1 chapter. Any waiver of the right to convert under this sub-  
 2 section is unenforceable.

3       ~~“(b) DISMISSAL BY DEBTOR.—On request of the~~  
 4 ~~debtor at any time, if the case has not been converted~~  
 5 ~~under section 706 or 1112, the court may dismiss a case~~  
 6 ~~under this chapter.~~

7       ~~“(c) CONVERSION OR DISMISSAL AT REQUEST OF~~  
 8 ~~PARTY IN INTEREST.—~~

9           ~~“(1) IN GENERAL.—On request of a party in~~  
 10 ~~interest, and after notice and a hearing, the court~~  
 11 ~~may convert a case under this chapter to a case~~  
 12 ~~under chapter 7 (if the debtor may be a debtor~~  
 13 ~~under this chapter) or may dismiss the case for~~  
 14 ~~cause.~~

15           ~~“(2) CAUSE.—For purposes of paragraph (1),~~  
 16 ~~cause includes—~~

17               ~~“(A) unreasonable delay or gross mis-~~  
 18 ~~management by the debtor that is prejudicial to~~  
 19 ~~creditors;~~

20               ~~“(B) nonpayment of any fees and charges~~  
 21 ~~required under chapter 123 of title 28;~~

22               ~~“(C) failure to file a plan timely under sec-~~  
 23 ~~tion 1021;~~

24               ~~“(D) failure to file a disclosure statement~~  
 25 ~~timely under section 1023;~~



1           “(E) failure to commence making timely  
2           payments required by a confirmed plan;

3           “(F) denial of confirmation of a plan  
4           under section 1026 or denial of a request made  
5           for additional time to filing another plan or a  
6           modification of a plan;

7           “(G) material default by a debtor with re-  
8           spect to a term of a confirmed plan;

9           “(H) revocation of an order of confirma-  
10          tion under section 1030 or denial of confirma-  
11          tion of a modified plan under section 1029;

12          “(I) termination of a confirmed plan by  
13          reason of the occurrence of a condition specified  
14          in the plan; and

15          “(J) continuing loss to or diminution of  
16          the estate and absence of a reasonable likeli-  
17          hood of rehabilitation.

18          “(d) COMPENSATION OF TRUSTEE.—Prior to the  
19          court’s conversion or dismissal of a case under this sec-  
20          tion, the court shall charge upon and require to be paid  
21          from the estate such compensation as the court finds rea-  
22          sonable under the circumstances to compensate the trustee  
23          appointed and serving under section 1003.

1                   **“Subchapter H—The Plan**

2   **“§ 1021. Filing of plan**

3           ~~“The debtor shall file a plan not later than 90 days~~  
 4 ~~after the date of entry of the order for relief under this~~  
 5 ~~chapter, except that the court may, for cause shown, and~~  
 6 ~~after notice and hearing, shorten or extend that period if~~  
 7 ~~such shortening or extension is substantially justified.~~

8   **“§ 1022. Contents of plan**

9           ~~“(a) REQUIRED CONTENTS.—The plan shall—~~

10           ~~“(1) provide for the submission of all or such~~  
 11 ~~portion future earnings or other future income of~~  
 12 ~~the debtor to the supervision and control of the~~  
 13 ~~trustee as is necessary for the execution of the plan;~~  
 14 ~~and~~

15           ~~“(2) if the plan classifies claims and interests,~~  
 16 ~~provide the same treatment for each claim or inter-~~  
 17 ~~est within a particular class unless the holder of a~~  
 18 ~~particular claim or interest agrees to less favorable~~  
 19 ~~treatment.~~

20           ~~“(b) ADDITIONAL CONTENTS.—Subject to sub-~~  
 21 ~~sections (a) and (c), the plan may—~~

22           ~~“(1) designate a class or classes of unsecured~~  
 23 ~~claims, as provided in section 1122, but may not dis-~~  
 24 ~~criminate unfairly against any class so designated;~~  
 25 ~~however, the plan may treat claims for a consumer~~

1 debt differently from other unsecured claims if an-  
2 other individual is liable on the consumer debt with  
3 the debtor;

4 “(2) modify the rights of holders of secured  
5 claims or holders of unsecured claims, or leave unaf-  
6 fected the rights of holders of any class of claims,  
7 but the plan may not modify a claim pursuant to  
8 section 506 of a person holding a primary or junior  
9 security interest in real property or a manufactured  
10 home (as defined in section 603(6) of the National  
11 Manufactured Housing Construction and Safety  
12 Standards Act of 1974 (42 U.S.C. 5402(6)) that is  
13 the debtor’s principal residence, except that the plan  
14 may modify the claim of a person holding such a  
15 junior security interest that was undersecured at the  
16 time the interest attached to the extent that the in-  
17 terest remains undersecured;

18 “(3) provide for the curing or waiving of any  
19 default;

20 “(4) provide for payments on any unsecured  
21 claim to be made concurrently with payments on any  
22 secured claim or any other unsecured claim;

23 “(5) notwithstanding paragraph (2), provide for  
24 the curing of any default within a reasonable time  
25 and maintenance of payments while the case is

1 pending on any unsecured claim or secured claim on  
2 which the last payment is due after the date on  
3 which the final payment under the plan is due;

4 “(6) subject to section 365, provide for the as-  
5 sumption, rejection, or assignment of any executory  
6 contract or expired lease of the debtor not previously  
7 rejected under that section;

8 “(7) provide for the payment of all or part of  
9 a claim against the debtor from the property of the  
10 estate or property of the debtor;

11 “(8) provide for the sale of all or any part of  
12 the property of the estate among those having an in-  
13 terest in such property;

14 “(9) provide for payment of allowed secured  
15 claims, consistent with section 1026(a)(5), over a pe-  
16 riod exceeding the period permitted under section  
17 1022(c);

18 “(10) provide for the vesting of property of the  
19 estate on confirmation of the plan or at a later time,  
20 in the debtor or any other entity; and

21 “(11) include any other appropriate provision  
22 not inconsistent with this title.

23 “(c) LIMITATION.—Except as provided in subsection  
24 (b)(5) and (9), the plan may not provide for payments  
25 over a period that is longer than 3 years unless the court

1 for cause approves a longer period, but the court may not  
2 approve a period that is longer than 5 years.

3 **“§ 1023. Postpetition disclosure and solicitation**

4       “(a) **PLAN AND DISCLOSURE STATEMENT.**—In a  
5 case under this chapter, an acceptance or rejection of a  
6 plan may not be solicited after the commencement of the  
7 case from a holder of a claim or interest with respect to  
8 the claim or interest unless, at the time or before such  
9 solicitation, there is transmitted to the holder the plan or  
10 a summary of the plan and a written disclosure statement  
11 that includes information sufficient to show whether or not  
12 the plan meets the requirements of section 1026.

13       “(b) **FORM.**—The court may require that the sum-  
14 mary of the plan and the disclosure statement employ a  
15 standard form approved by the court.

16 **“§ 1024. Modification of plan before confirmation**

17       “(a) **IN GENERAL.**—A debtor may modify a plan at  
18 any time before confirmation but may not modify the plan  
19 so that the plan as modified fails to meet the requirements  
20 of section 1022.

21       “(b) **EFFECT.**—After a debtor files a modification  
22 under this section, the plan as modified becomes the plan.

23       “(c) **ACCEPTANCE.**—A holder of a secured claim that  
24 has accepted or rejected a plan is deemed to have accepted

1 or rejected, as the case may be, the plan as modified, un-  
2 less—

3 “(1) the modification provides for a change in  
4 the rights of the holder under the plan before modi-  
5 fication; and

6 “(2) the holder changes the holder’s previous  
7 acceptance or rejection.

8 **“§ 1025. Confirmation hearing**

9 “(a) HEARING.—After expedited notice, the court  
10 shall hold a hearing on confirmation of the plan.

11 “(b) OBJECTION TO CONFIRMATION.—A party in in-  
12 terest, the trustee, or the United States trustee may object  
13 to the confirmation of the plan.

14 “(c) OBJECTION TO DISCLOSURE OF INFORMA-  
15 TION.—A party in interest, the trustee, or the United  
16 States trustee may object to the disclosure of information  
17 that is required to be disclosed under section 1023.

18 “(d) CONCLUSION OF HEARING.—Except for cause,  
19 the hearing shall be concluded not later than 45 days after  
20 the filing of the plan.

21 **“§ 1026. Confirmation of plan**

22 “(a) CRITERIA.—Except as provided in subsection  
23 (b), the court shall confirm a plan if—

24 “(1) the plan complies with all applicable provi-  
25 sions of this title;

1           ~~“(2) any fee, charge, or amount required under~~  
2           ~~chapter 123 of title 28, or by the plan, to be paid~~  
3           ~~before confirmation, has been paid;~~

4           ~~“(3) the plan has been proposed in good faith~~  
5           ~~and not by any means forbidden by law;~~

6           ~~“(4) the value of property to be distributed~~  
7           ~~under the plan on account of each unsecured claim,~~  
8           ~~as of the effective date of the plan, is not less than~~  
9           ~~the amount that would be paid on the claim if the~~  
10          ~~estate of the debtor were to be liquidated under~~  
11          ~~chapter 7 on that date;~~

12          ~~“(5) with respect to each allowed secured claim~~  
13          ~~provided for by the plan—~~

14                 ~~“(A) the holder of the claim has accepted~~  
15                 ~~the plan;~~

16                 ~~“(B)(i) the plan provides that the holder of~~  
17                 ~~the claim will retain the lien securing the claim;~~  
18                 ~~and~~

19                 ~~“(ii) the value of property to be distributed~~  
20                 ~~by the trustee or the debtor under the plan on~~  
21                 ~~account of the claim, as of the effective date of~~  
22                 ~~the plan, is not less than the allowed amount of~~  
23                 ~~the claim; or~~

24                 ~~“(C) the debtor surrenders the property se-~~  
25                 ~~curing the claim to the holder;~~

1           ~~“(6) the debtor will be able to make all pay-~~  
2           ~~ments under the plan and to comply with the plan;~~

3           ~~“(7) except to the extent that the holder of a~~  
4           ~~claim has agreed to a different treatment of the~~  
5           ~~claim, the plan provides that—~~

6                   ~~“(A) with respect to a claim of a kind de-~~  
7                   ~~scribed in section 507(a) (1) or (2), on the ef-~~  
8                   ~~fective date of the plan, the holder of the claim~~  
9                   ~~will receive on account of the claim cash equal~~  
10                  ~~to the allowed amount of the claim;~~

11                  ~~“(B) with respect to a class of claims of a~~  
12                  ~~kind described in section 507(a) (3), (4), (5), or~~  
13                  ~~(6), each holder of a claim of the class will re-~~  
14                  ~~ceive cash or deferred cash payments of a value,~~  
15                  ~~as of the effective date of the plan, equal to the~~  
16                  ~~allowed amount of such claims; and~~

17                  ~~“(C) with respect to a claim of a kind de-~~  
18                  ~~scribed in section 507(a)(7), the holder of the~~  
19                  ~~claim will receive on account of the claim de-~~  
20                  ~~ferred cash payments, over a period ending on~~  
21                  ~~the later of—~~

22                          ~~“(i) the date of termination of the~~  
23                          ~~plan; or~~

24                          ~~“(ii) the date that is 6 years after the~~  
25                          ~~date of assessment of the claim,~~



1 of a value, as of the effective date of the plan,  
 2 equal to the allowed amount of the claim; and  
 3 “(8) confirmation of the plan is not likely to be  
 4 followed by the liquidation or the need for further fi-  
 5 nancial reorganization of the debtor or any successor  
 6 to the debtor under the plan, unless liquidation or  
 7 reorganization is proposed in the plan.

8 “(b) CONFIRMATION NOTWITHSTANDING NONCON-  
 9 FORMANCE OR OBJECTION.—If the trustee or the holder  
 10 of an allowed unsecured claim objects to the confirmation  
 11 of the plan, the court may not approve the plan unless,  
 12 as of the effective date of the plan—

13 “(1) the value of the property to be distributed  
 14 under the plan on account of the claim is not less  
 15 than the amount of the claim; or

16 “(2) the plan provides that all of the debtor’s  
 17 projected disposable income to be received in the 3-  
 18 year period, or such longer period as the court may  
 19 approve under section 1022(c), beginning on the  
 20 date on which the first payment is due under the  
 21 plan, will be applied to make payments under the  
 22 plan.

### 23 **“§ 1027. Payments**

24 “(a) RETENTION BY TRUSTEE.—Payments and  
 25 funds received by the trustee shall be retained by the

1 trustee until confirmation or denial of confirmation of a  
2 plan.

3       ~~“(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If~~  
4 a plan is confirmed, the trustee shall distribute in accord-  
5 ance with the plan payments and funds retained pursuant  
6 to subsection (a).

7       ~~“(c) RETURN FOLLOWING NONCONFIRMATION.—If a~~  
8 plan is not confirmed, the trustee shall return any pay-  
9 ments and funds retained pursuant to subsection (a), after  
10 deducting—

11           ~~“(1) any unpaid claim allowed under section~~  
12           ~~503(b); and~~

13           ~~“(2) if a standing trustee is serving in the case,~~  
14           ~~the percentage fixed for the standing trustee under~~  
15           ~~section 1003.~~

16       ~~“(d) PAYMENTS PRECEDING PAYMENTS TO CREDI-~~  
17 ~~TORS.—Before or at the time of each payment to creditors~~  
18 ~~under the plan, there shall be paid—~~

19           ~~“(1) any unpaid claim of a kind described in~~  
20           ~~section 507(a)(1); and~~

21           ~~“(2) if a standing trustee is serving in the case,~~  
22           ~~the percentage fee fixed for such standing trustee~~  
23           ~~under section 1003.~~

24       ~~“(e) PAYMENTS TO CREDITORS.—Except as other-~~  
25 ~~wise provided in the plan or in the order confirming the~~

1 plan, the trustee shall make payments to creditors under  
2 the plan.

3 **“§ 1028. Effect of confirmation**

4 “(a) PERSONS BOUND.—Except as provided in sub-  
5 section (d) (2) and (3), a confirmed plan binds the debtor,  
6 any entity issuing securities under the plan, any entity ac-  
7 quiring property under the plan, and any creditor, equity  
8 security holder, or general partner of the debtor, whether  
9 or not the claim or interest of such creditor, equity secu-  
10 rity holder, or general partner is impaired under the plan  
11 and whether or not such creditor, equity security holder,  
12 or general partner has accepted the plan.

13 “(b) VESTING OF PROPERTY.—Except as otherwise  
14 provided in the plan or order confirming the plan, the con-  
15 firmation of a plan vests all of the property of the estate  
16 in the debtor.

17 “(c) FREEDOM OF PROPERTY FROM CLAIMS AND IN-  
18 TERESTS.—Except as provided in subsection (d) (2) and  
19 (3), and except as otherwise provided in the plan or in  
20 the order confirming the plan, after confirmation of a  
21 plan, the property dealt with by the plan is free and clear  
22 of all claims and interests of creditors, equity security  
23 holders, and general partners of the debtor.

24 “(d) DISCHARGE OF DEBTOR.—

1           “(1) ON COMPLETION OF PAYMENTS.—As soon  
 2           as practicable after completion by the debtor of all  
 3           payments under the plan, other than payments to  
 4           holders of allowed claims provided for under section  
 5           1022(b) (5) or (9), unless the court approves a writ-  
 6           ten waiver of discharge executed by the debtor after  
 7           the order for relief under this chapter, the court  
 8           shall grant the debtor a discharge of all debts pro-  
 9           vided for by the plan allowed under section 503 or  
 10          disallowed under section 502, except any debt—

11                   “(A) provided for under section 1022(b)  
 12                   (5) or (9); or

13                   “(B) of the kind specified in section  
 14                   523(a).

15           “(2) WHEN PAYMENTS ARE NOT COM-  
 16           PLETED.—At any time after the confirmation of the  
 17           plan and after notice and a hearing, the court may  
 18           grant a discharge to a debtor that has not completed  
 19           payments under the plan if—

20                   “(A) the debtor’s failure to complete such  
 21                   payments is due to circumstances for which the  
 22                   debtor should not be justly held accountable;

23                   “(B) the value, as of the effective date of  
 24                   the plan, of property actually distributed under  
 25                   the plan on account of each allowed secured

1 claim is not less than the amount that would  
2 have been paid on the claim if the estate of the  
3 debtor had been liquidated under chapter 7 on  
4 that date; and

5 “(C) modification of the plan under section  
6 1029 is not practicable.

7 “(3) EFFECT.—A discharge granted under  
8 paragraph (2) discharges the debtor from all unse-  
9 cured debts provided for by the plan or disallowed  
10 under section 502, except any debt—

11 “(A) provided for under section 1022(b)(5)  
12 or (9); or

13 “(B) of a kind specified in section 523(a).

14 “(4) REVOCATION.—On request of a party in  
15 interest made before the date that is 1 year after the  
16 date on which a discharge under this section is  
17 granted, and after notice and hearing, the court may  
18 revoke the discharge if—

19 “(A) the discharge was obtained by the  
20 debtor through fraud; and

21 “(B) the requesting party did not know of  
22 the fraud until after the discharge was granted.

23 “(e) TERMINATION OF SERVICES OF TRUSTEE.—  
24 After the debtor is granted a discharge, the court shall  
25 terminate the services of any trustee serving in the case.

1 **~~“§ 1029. Modification of plan after confirmation~~**

2 ~~“(a) IN GENERAL.—At any time after confirmation~~  
 3 ~~of a plan but before the completion of payments under~~  
 4 ~~the plan, the plan may be modified, on request of the debt-~~  
 5 ~~or, the trustee, or the holder of any allowed unsecured~~  
 6 ~~claim, to—~~

7 ~~“(1) increase or reduce the amount of payments~~  
 8 ~~of claims of a particular class provided for by the~~  
 9 ~~plan;~~

10 ~~“(2) extend or reduce the time for such pay-~~  
 11 ~~ments; or~~

12 ~~“(3) alter the amount of the distribution to a~~  
 13 ~~creditor whose claim is provided for by the plan to~~  
 14 ~~the extent necessary to take account of any payment~~  
 15 ~~of the claim other than under the plan.~~

16 ~~“(b) APPLICABILITY OF REQUIREMENTS.—Sections~~  
 17 ~~1022 (a) and (b) and 1024 and the requirements of sec-~~  
 18 ~~tion 1025(a) apply to a modification under subsection (a).~~

19 ~~“(c) LIMITATION.—A plan modified under subsection~~  
 20 ~~(a) may not provide for payments over a period that ex-~~  
 21 ~~pires after 3 years after the date on which the first pay-~~  
 22 ~~ment under the original confirmed plan was due, unless~~  
 23 ~~the court, for cause, approves a longer period, but the~~  
 24 ~~court may not approve a period that expires after 5 years~~  
 25 ~~after that date.~~

1       “(d) REPORT.—Not later than 60 days after each an-  
 2 niversary of the confirmation of the plan, the trustee shall  
 3 file a report with the court, and serve a copy on all credi-  
 4 tors requesting service of a copy of the report, setting  
 5 forth—

6           “(1) the amount of distributions made to credi-  
 7 tors during the preceding year;

8           “(2) a description of the debtor’s compliance  
 9 with the provisions of the plan during the preceding  
 10 year;

11          “(3) a description of the debtor’s disposable in-  
 12 come in relation to the continued ability to comply  
 13 with the terms of the confirmed plan; and

14          “(4) any modifications to the plan that are nec-  
 15 essary to ensure the reorganization of the debtor  
 16 and the payment to creditors of all disposal income.

17 **“§ 1030. Revocation of order of confirmation**

18       “(a) REVOCATION FOR FRAUD.—On request of a  
 19 party in interest at any time within 180 days after the  
 20 date of the entry of an order of confirmation under section  
 21 1028, and after notice and a hearing, the court may re-  
 22 voke the order if the order was procured by fraud.

23       “(b) DISPOSITION OF CASE AFTER REVOCATION.—  
 24 If the court revokes an order of confirmation under sub-  
 25 section (a), the court shall dispose of the case under sec-

tion 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029.”.

(d) TECHNICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:

**“10. Small Businesses ..... 1001”.**

(2) CROSS-REFERENCES IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended—

(A) in section 321(a) by inserting “10,” after “7,” each place it appears;

(B) in section 322(a) by inserting “1005” after “703,”;

(C) in section 326(b)—

(i) by striking “12 or 13” and inserting “10, 12, or 13”; and

(ii) by striking “1202(a) or 1302(a)” and inserting “1005, 1202(a), or 1302(a)”;

(D) in section 327—

(i) in subsection (b) by inserting “1005,” after “721,”; and



1           (ii) in subsection (c) by inserting  
2           “10,” after “7,”;

3           (E) in section 329(b)(1)(B) by inserting  
4           “10,” after “chapter”;

5           (F) in section 330(c) by striking “12 or  
6           13” and inserting “10, 12, or 13”;

7           (G) in section 346—

8           (i) in subsection (b) by inserting  
9           “10,” after “7,”;

10          (ii) in subsection (g)(1)(C) by striking  
11          “11 or 12” and inserting “10, 11, or 12”;  
12          and

13          (iii) in subsection (i)(1) by inserting  
14          “10,” after “7,”;

15          (H) in section 347—

16          (i) in subsection (a)—

17               (I) by inserting “1027,” after  
18               “726,”; and

19               (II) by inserting “10,” after  
20               “7,”; and

21          (ii) in subsection (b)—

22               (I) by inserting “10,” after “9,”;  
23               and

24               (II) by inserting “1026,” after  
25               “943(b),”;

1           (I) in section 348—

2                 (i) in subsections (b), (c), and (e) by  
3           inserting “1009,” after “706,” each place  
4           it appears; and

5                 (ii) in subsection (d) by inserting  
6           “1009,” after “section”;

7           (J) in section 362(c)(2)(C) by inserting  
8           “10,” after “9,”;

9           (K) in section 363—

10                (i) in subsection (c)(1) by inserting  
11           “1006,” after “721,”; and

12                (ii) in subsection (l) by inserting  
13           “10,” after “chapter”;

14           (L) in section 364(a) by inserting “1006,  
15           1007,” after “721,”;

16           (M) in section 365—

17                (i) in subsections (d)(2) and (g) (1)  
18           and (2) by inserting “10,” after “9,” each  
19           place it appears; and

20                (ii) in subsection (g)(2) (A) and (B)  
21           by inserting “1009,” after “section” each  
22           place it appears;

23           (N) in section 502(g) by inserting “10,”  
24           after “9,”;

1           (O) in section 523(a) by inserting  
2           “1028(d),” after “727,”;

3           (P) in section 524—

4           (i) in subsections (a)(1), (c)(1), and  
5           (d) by inserting “1028(d),” after “727,”  
6           each place it appears; and

7           (ii) in subsection (a)(3) by inserting  
8           “1028(d),” after “523,”;

9           (Q) in section 546(a)(1) by inserting  
10          “1005,” after “702,”;

11          (R) in section 557(d)(3) by inserting  
12          “1005,” after “703,”;

13          (S) in section 706—

14          (i) in subsection (a)—

15               (I) by inserting “10,” before  
16               “11,”; and

17               (II) by inserting “1009,” after  
18               “section”; and

19          (ii) in subsection (c) by striking “12  
20          or 13” and inserting “10, 12, or 13”;

21          (T) in section 726(b) by inserting “1009,”  
22          after “chapter under section”;

23          (U) in section 1106(a)(5) by inserting  
24          “10,” after “7,”;

1           (V) in section 1306(a) (1) and (2) by in-  
 2           serting “10,” after “7,” each place it appears;  
 3           and

4           (W) in section 1307—

5           (i) in subsection (b) by inserting  
 6           “1009,” after “706,”;

7           (ii) in subsection (d) by striking “11  
 8           or 12” and inserting “10, 11, or 12”; and

9           (iii) in subsection (e) by inserting  
 10          “10,” after “7,”.

11          (3) BANKRUPTCY RULES.—The rules prescribed  
 12          under section 2075 of title 28, United States Code,  
 13          and in effect on the date of the enactment of this  
 14          Act shall apply to cases filed under chapter 10 of  
 15          title 11, United States Code, to the extent prac-  
 16          ticable and not inconsistent with the amendments  
 17          made by this Act.

18          (4) AMENDMENT OF TITLE 28, UNITED STATES  
 19          CODE.—Title 28, United States Code, is amended—

20           (A) in section 157(b)(2)(B) by inserting  
 21           “10,” after “chapter”;

22           (B) in section 586—

23           (i) in subsection (a)—

24           (I) in paragraph (1)(C)—

1                   (aa) by striking “12 and  
2                   13” and inserting “10, 12, and  
3                   13”; and

4                   (bb) by inserting “1025,  
5                   1029,” after “sections”; and

6                   (HI) in paragraph (3) in the mat-  
7                   ter preceding subparagraph (A), by  
8                   inserting “10,” after “7,”;

9                   (C) in subsections (b), (d), and (e) by  
10                  striking “12 or 13” each place it appears and  
11                  inserting “10, 12, or 13”; and

12                  (D) in section 1930(a)—

13                   (i) by redesignating paragraphs (3),  
14                   (4), (5), and (6) as paragraphs (4), (5),  
15                   (6), and (7), respectively; and

16                   (ii) by inserting after paragraph (2)  
17                  the following new paragraph:

18                  “(3) For a case commenced under chapter 10  
19                  of title 11, \$600.”.

20                  (5) AMENDMENT OF THE BANKRUPTCY,  
21                  JUDGES, UNITED STATES TRUSTEES, AND FAMILY  
22                  FARMER BANKRUPTCY ACT OF 1986.—Section 302 of  
23                  the Bankruptcy Judges, United States Trustees, and  
24                  Family Farmer Bankruptcy Act of 1986 (100 Stat.

1       3119) is amended in subsections (d) and (e) by in-  
2       serting “10,” after “7,” each place it appears.

3       ~~(e) APPLICATION OF CHAPTER 10 OF TITLE 11.—~~

4           ~~(1) SELECTION OF DEMONSTRATION DIS-~~  
5       ~~TRICTS.—Not later than 90 days after the date of~~  
6       ~~enactment of this Act, the Director of the Adminis-~~  
7       ~~trative Office of the United States Courts shall—~~

8           ~~(A) select 8 judicial districts in which~~  
9       ~~chapter 10 of title 11, United States Code, shall~~  
10      ~~be effective for a period of 3 years; and~~

11          ~~(B) identify those districts by notice in the~~  
12      ~~Federal Register.~~

13      ~~(2) EFFECTIVE PERIOD.—Chapter 10 of title~~  
14      ~~11, United States Code, shall become effective only~~  
15      ~~in the 8 judicial districts selected under paragraph~~  
16      ~~(1), beginning on the date that is 90 days after the~~  
17      ~~date of enactment of this Act and ending on the~~  
18      ~~date that is 3 years after that date.~~

19      ~~(3) REPEAL.—(A) Chapter 10 of title 11, Unit-~~  
20      ~~ed States Code, is repealed on the date that is 3~~  
21      ~~years after the date that is 90 days after the date~~  
22      ~~of enactment of this Act. All cases commenced or~~  
23      ~~pending under that chapter and all matters and pro-~~  
24      ~~ceedings in or relating to those cases shall be con-~~  
25      ~~ducted and determined under that chapter as if the~~

1 chapter had not been repealed. The substantive  
2 rights of parties in connection with those cases, mat-  
3 ters, and proceedings as if the chapter had not been  
4 repealed.

5 (B) The Committee on the Judiciary of the  
6 Senate and the Committee on the Judiciary of the  
7 House of Representatives shall prepare and report to  
8 the Senate and the House of Representatives, re-  
9 spectively, not later than 90 days before the repeal  
10 date described in subparagraph (A), legislation pro-  
11 posing such technical amendments as may be nec-  
12 essary or appropriate at that time in view of the re-  
13 peal made by subparagraph (A).

14 **SEC. 202. SINGLE ASSET REAL ESTATE.**

15 (a) **DEFINITION.**—Section 101 of title 11, United  
16 States Code, is amended by inserting in its proper alpha-  
17 betical position the following new definition:

18 “ ‘single asset real estate’ means real property  
19 constituting a single property or project, other than  
20 residential real property with fewer than 4 residen-  
21 tial units, which generates substantially all of the  
22 gross income of a debtor and on which no substan-  
23 tial business is being conducted by a debtor other  
24 than the business of operating the real property and  
25 activities incidental thereto.”

1       ~~(b) AUTOMATIC STAY.—~~Section 362 of title 11, Unit-  
2 ed States Code, is amended—

3           ~~(1) in subsection (d)—~~

4               ~~(A) in paragraph (1) by striking “or” at~~  
5               the end;

6               ~~(B) in paragraph (2) by striking the period~~  
7               at the end and inserting “; or”; and

8               ~~(C) by adding at the end the following new~~  
9               paragraph:

10           ~~“(3) with respect to a stay of an act against~~  
11           single asset real estate under subsection (a), by a  
12           creditor whose claim is secured by an interest in  
13           such real estate, unless, not later than the date that  
14           is 90 days after the entry of the order for relief (or  
15           such later date as the court may determine for cause  
16           by order entered within that 90-day period)—

17               ~~“(A) the debtor has filed a plan of reorga-~~  
18               nization that has a reasonable possibility of  
19               being confirmed within a reasonable time; or

20               ~~“(B) the debtor has commenced monthly~~  
21               payments to each creditor whose claim is se-  
22               cured by such real estate, which payments are  
23               in an amount equal to interest at a current fair  
24               market rate on the value of the creditor’s inter-  
25               est in the real estate.”; and



1           (2) by adding at the end the following new sub-  
2           section:

3           “(i)(1) Upon request of a creditor whose claim is se-  
4           cured by an interest in single asset real estate, if the inter-  
5           est has more than de minimis value, the court shall issue  
6           an order granting limited relief from the stay provided  
7           under subsection (a) to permit the creditor to continue a  
8           foreclosure proceeding commenced before the commence-  
9           ment of the case up to, but not including, the point of  
10          sale.

11          “(2) An order under paragraph (1) shall not issue  
12          before the date that is 30 days after the date of entry  
13          of the order for relief, but thereafter shall issue promptly  
14          after such a request.

15          “(3) A hearing shall not be required for the granting  
16          of relief under paragraph (1) unless the debtor files an  
17          objection to the request and shows the court extraordinary  
18          circumstances requiring such a hearing.”.

19       **SEC. 203. AIRCRAFT EQUIPMENT, VESSELS, AND ROLLING**  
20               **STOCK EQUIPMENT.**

21          (a) AMENDMENT OF SECTION 1110.—Section 1110  
22          of title 11, United States Code, is amended to read as  
23          follows:

1 **“§ 1110. Aircraft equipment and vessels**

2       “(a)(1) The right of a secured party with a security  
3 interest in equipment described in paragraph (2) or of a  
4 lessor or conditional vendor of such equipment to take pos-  
5 session of such equipment in compliance with a security  
6 agreement, lease, or conditional sale contract is not af-  
7 fected by section 362 or 363 or by any power of the court  
8 to enjoin the taking of possession unless—

9               “(A) before the date that is 60 days after the  
10 date of the order for relief under this chapter, the  
11 trustee, subject to the court’s approval, agrees to  
12 perform all obligations of the debtor that become  
13 due on or after the date of the order under such se-  
14 curity agreement, lease, or conditional sale contract;  
15 and

16               “(B) any default, other than a default of a kind  
17 specified in section 365(b)(2), under such security  
18 agreement, lease, or conditional sale contract—

19                       “(i) that occurs before the date of the  
20 order is cured before the expiration of such 60-  
21 day period; and

22                       “(ii) that occurs after the date of the order  
23 is cured before the later of—

24                               “(I) the date that is 30 days after the  
25 date of the default; or

1                   “(II) the expiration of such 60-day  
2                   period.

3       “(2) Equipment is described in this paragraph if it  
4 is—

5               “(A) an aircraft, aircraft engine, propeller, ap-  
6       pliance, or spare part (as defined in section 101 of  
7       the Federal Aviation Act of 1958 (49 U.S.C. App.  
8       1301)) that is subject to a security interest granted  
9       by, leased to, or conditionally sold to a debtor that  
10      is an air carrier (as defined in section 101 of the  
11      Federal Aviation Act of 1958 (49 U.S.C. App.  
12      1301)); or

13              “(B) a documented vessel (as defined in section  
14      30101(1) of title 46, United States Code) that is  
15      subject to a security interest granted by, leased to,  
16      or conditionally sold to a debtor that is a water car-  
17      rier that holds a certificate of public convenience  
18      and necessity or permit issued by the Interstate  
19      Commerce Commission.

20       “(3) Paragraph (1) applies to a secured party, lessor,  
21 or conditional vendor acting in its own behalf or acting  
22 as trustee or otherwise in behalf of another party.

23       “(b) The trustee and the secured party, lessor, or  
24 conditional vendor whose right to take possession is pro-  
25 tected under subsection (a) may agree, subject to the

1 court's approval, to extend the 60-day period specified in  
2 subsection (a)(1).

3       ~~“(c) If the trustee makes an agreement of the kind~~  
4 ~~described in subsection (a)(1)(A) with respect to a security~~  
5 ~~agreement, lease, or conditional sale contract, any costs~~  
6 ~~and expenses incurred by the secured party, lessor, or con-~~  
7 ~~ditional vendor to remedy the failure of the trustee to per-~~  
8 ~~form the obligations of the estate to maintain or return~~  
9 ~~equipment in accordance with the security agreement,~~  
10 ~~lease, or conditional sale contract constitute administra-~~  
11 ~~tive expenses under section 503(b)(1)(A).~~

12       ~~“(d) With respect to equipment first placed in service~~  
13 ~~on or prior to the date of enactment of this subsection,~~  
14 ~~for purposes of this section—~~

15               ~~“(1) the term ‘lease’ includes any written agree-~~  
16 ~~ment with respect to which the lessor and the debt-~~  
17 ~~or, as lessee, have expressed in the agreement or in~~  
18 ~~a substantially contemporaneous writing that the~~  
19 ~~agreement is to be treated as a lease for Federal in-~~  
20 ~~come tax purposes; and~~

21               ~~“(2) the term ‘security interest’ means a pur-~~  
22 ~~chase-money equipment security interest.”.~~

23       (b) AMENDMENT OF SECTION 1168.—Section 1168  
24 of title 11, United States Code, is amended to read as  
25 follows:

1 **“§ 1168. Rolling stock equipment**

2       “(a)(1) The right of a secured party with a security  
3 interest in or of a lessor or conditional vendor of equip-  
4 ment described in paragraph (2) to take possession of such  
5 equipment in compliance with an equipment security  
6 agreement, lease, or conditional sale contract is not af-  
7 fected by section 362 or 363 or by any power of the court  
8 to enjoin the taking of possession, unless—

9           “(A) before the date that is 60 days after the  
10 date of commencement of a case under this chapter,  
11 the trustee, subject to the court’s approval, agrees to  
12 perform all obligations of the debtor that become  
13 due on or after the date of commencement of the  
14 case under such security agreement, lease, or condi-  
15 tional sale contract; and

16           “(B) any default, other than a default of a kind  
17 described in section 365(b)(2), under such security  
18 agreement, lease, or conditional sale contract—

19           “(i) that occurs before the date of com-  
20 mencement of the case and is an event of de-  
21 fault therewith is cured before the expiration of  
22 such 60-day period; and

23           “(ii) that occurs or becomes an event of  
24 default after the date of commencement of the  
25 case is cured before the later of—

1                   “(I) the date that is 30 days after the  
2                   date of the default or event of default; or  
3                   “(II) the expiration of such 60-day  
4                   period.

5           “(2) Equipment is described in this paragraph if it  
6 is rolling stock equipment or accessories used on such  
7 equipment, including superstructures and racks, that is  
8 subject to a security interest granted by, leased to, or con-  
9 ditionally sold to the debtor.

10          “(3) Paragraph (1) applies to a secured party, lessor,  
11 or conditional vendor acting in its own behalf or acting  
12 as trustee or otherwise in behalf of another party.

13          “(b) The trustee and the secured party, lessor, or  
14 conditional vendor whose right to take possession is pro-  
15 tected under subsection (a) may agree, subject to the  
16 court’s approval, to extend the 60-day period specified in  
17 subsection (a)(1).

18          “(c) If the trustee makes an agreement of the kind  
19 described in subsection (a)(1)(A) with respect to a security  
20 agreement, lease, or conditional sale contract, any costs  
21 and expenses incurred by the secured party, lessor, or con-  
22 ditional vendor to remedy the failure of the trustee to per-  
23 form the obligations of the estate to maintain or return  
24 equipment in accordance with the security agreement,

1 lease, or conditional sale contract constitute administra-  
 2 tive expenses under section 503(b)(1)(A).

3       ~~“(d) With respect to equipment first placed in service~~  
 4 ~~on or prior to the date of enactment of this subsection,~~  
 5 ~~for purposes of this section—~~

6           ~~“(1) the term ‘lease’ includes any written agree-~~  
 7 ~~ment with respect to which the lessor and the debt-~~  
 8 ~~or, as lessee, have expressed in the agreement or in~~  
 9 ~~a substantially contemporaneous writing that the~~  
 10 ~~agreement is to be treated as a lease for Federal in-~~  
 11 ~~come tax purposes; and~~

12           ~~“(2) the term ‘security interest’ means a pur-~~  
 13 ~~chase-money equipment security interest.”.~~

14       ~~(c) APPLICATION OF AMENDMENTS.—~~

15           ~~(1) IN GENERAL.—The amendment of sections~~  
 16 ~~1110(a) and 1168(a) of title 11, United States~~  
 17 ~~Code, made by subsections (a) and (b) shall not~~  
 18 ~~apply to cases commenced under title 11, United~~  
 19 ~~States Code, prior to the date of enactment of this~~  
 20 ~~Act.~~

21           ~~(2) PLACEMENT IN SERVICE.—The amendment~~  
 22 ~~of section 1168(a) of title 11, United States Code,~~  
 23 ~~made by subsection (b) shall take effect with respect~~  
 24 ~~to equipment that is first placed in service after the~~  
 25 ~~date of enactment of this Act, including rolling stock~~

1 equipment that is substantially rebuilt after that  
2 date and accessories used on such equipment.

3 **SEC. 204. UNEXPIRED LEASES OF PERSONAL PROPERTY IN**  
4 **CHAPTER 11 CASES.**

5 Section 365 of title 11, United States Code, is  
6 amended in the first sentence by inserting after “real  
7 property” the following: “and, in a case under chapter 11,  
8 under an unexpired lease of personal property”.

9 **SEC. 205. PROTECTION OF ASSIGNEES OF EXECUTORY CON-**  
10 **TRACTS AND UNEXPIRED LEASES APPROVED**  
11 **BY COURT ORDER IN CASES REVERSED ON**  
12 **APPEAL.**

13 Section 365 of title 11, United States Code, is  
14 amended by adding at the end the following new sub-  
15 section:

16 “(p) The reversal or modification on appeal of an au-  
17 thorization under this section of an assignment of an exec-  
18 utory contract or unexpired lease does not affect the valid-  
19 ity of the assignment to an entity that obtained the assign-  
20 ment in good faith, whether or not the entity knew of the  
21 pendency of the appeal, unless the authorization and the  
22 assignment were stayed pending appeal.”.



1 **SEC. 206. PROTECTION OF SECURITY INTEREST IN POST-**  
 2 **PETITION RENTS.**

3 **POSTPETITION EFFECT OF SECURITY INTEREST.—**

4 Section 552(b) of title 11, United States Code, is amend-  
 5 ed—

6 (1) by inserting “(1)” after “(b)”;

7 (2) by striking “rents,” each place it appears;

8 and

9 (3) by adding at the end the following new  
 10 paragraph:

11 “(2)(A) Except as provided in sections 363, 506(c),  
 12 522, 544, 545, 547, and 548, if—

13 “(i) the debtor and an entity entered into a se-  
 14 curity agreement that was duly recorded in the pub-  
 15 lic records before the commencement of the case;  
 16 and

17 “(ii) the security interest created by the secu-  
 18 rity agreement extends to property of the debtor ac-  
 19 quired before the commencement of the case and to  
 20 rents or fees, charges, accounts or other payments  
 21 for the use or occupancy of rooms and other public  
 22 facilities in hotels, motels or other lodging properties  
 23 of such property and has been duly recorded in the  
 24 public record,

25 the security interest extends to the rents or fees, charges,  
 26 accounts, or other payments acquired by the estate after

1 the commencement of the case to the extent provided in  
 2 the security agreement, whether or not the security inter-  
 3 est in such rents, fees, charges, accounts or other pay-  
 4 ments is perfected under applicable nonbankruptcy law,  
 5 except to the extent that the court, after notice and a  
 6 hearing and based on the equities of the case, orders oth-  
 7 erwise.”.

8 “(B) If a security interest extends under subpara-  
 9 graph (A) to rents acquired by the estate after the com-  
 10 mencement of the case, the security interest in such rents  
 11 shall be deemed to be perfected for the purpose of section  
 12 544(a).”.

13 (b) ~~USE SALE, OR LEASE OF PROPERTY.~~—Section  
 14 363(a) of title 11, United States Code, is amended by in-  
 15 serting: “and the fees, charges, accounts or other pay-  
 16 ments for the use or occupancy of rooms and other public  
 17 facilities in hotels, motels, or other lodging properties”  
 18 after “property”.

19 **SEC. 207. ANTI-ALIENATION.**

20 (a) ~~AUTOMATIC STAY.~~—Section 362(b) of title 11,  
 21 United States Code, as amended by section 501(a), is  
 22 amended—

23 (1) by striking “or” at the end of paragraph  
 24 (16);

1           (2) by adding “or” at the end of paragraph  
2           (17); and

3           (3) by adding at the end the following new  
4           paragraph:

5           “(18) under subsection (a), of withholding of  
6           income from a debtor’s wages and collection of  
7           amounts withheld, pursuant to the debtor’s agree-  
8           ment authorizing such withholding and collection for  
9           the benefit of a pension, profit sharing, stock bonus,  
10          or other plan qualified under section 401(a), 403(a),  
11          403(b), or 408(k), or 457 or a governmental plan  
12          under 414(d) of the Internal Revenue Code of 1986,  
13          which is sponsored by the employer of the debtor, or  
14          an affiliate, successor or predecessor of such em-  
15          ployer, to the extent that the amounts withheld and  
16          collected are used solely for payments relating to a  
17          loan from the plan that satisfies the requirements of  
18          section 404 of the Employee Retirement Income Se-  
19          curity Act of 1974 (29 U.S.C. 1108(b)(1)) or, in the  
20          case of a loan from the Thrift Savings Plan de-  
21          scribed in subchapter III of title 5, United States  
22          Code, that satisfies the requirements of section  
23          8433(i) of that title.”.

24          (b) EXCEPTIONS TO DISCHARGE.—Subsection 523(a)  
25          of title 11, United States Code, is amended—

1           (1) by striking “or” at the end of paragraph  
2       (11);

3           (2) by striking the period at the end of para-  
4       graph (12) and inserting “; or”; and

5           (3) by adding at the end the following new  
6       paragraph:

7           “(13) owed to a pension, profitsharing, stock  
8       bonus, or other plan qualified under section 401(a),  
9       403(a), 403(b), 408(k) or a governmental plan  
10      under 414(d) or 457 of the Internal Revenue Code  
11      of 1986 pursuant to a loan permitted under section  
12      404 of the Employee Retirement Income Security  
13      Act of 1974 (29 U.S.C. 1108(b)(1)) or pursuant to  
14      a loan from the Thrift Savings Plan described in  
15      subchapter III of title 5, United States Code, that  
16      satisfies the requirements of section 8433(i) of that  
17      title.”.

18       (c) PROPERTY OF THE ESTATE.—Subsection 541(c)  
19   of title 11, United States Code, is amended by adding at  
20   the end the following new paragraph:

21           “(3)(A) Subject to subparagraph (B), assets  
22       and benefits accumulated for the benefits of a debtor  
23       pursuant to a pension, profitsharing, stock bonus, or  
24       other plan qualified under section 401(a), 403(a),  
25       403(b), or 408(k), or a governmental plan under

1       414(d), or 457 of the Internal Revenue Code of  
 2       1986 and any rights of debtor to such assets or ben-  
 3       efits shall be excluded from the property of the es-  
 4       tate.

5           “(B) Subparagraph (A) does not apply to plan  
 6       assets or benefits attributable to contributions of the  
 7       debtor to the extent that such contributions were in  
 8       excess of the applicable limits on such contributions  
 9       under section 401(k), 401(m), or 415 of the Internal  
 10      Revenue Code of 1986.”.

11      (d) PLAN CONTENTS.—Section 1322 of title 11,  
 12      United States Code, is amended by adding at the end the  
 13      following new subsection:

14           “(d) The plan may not materially alter the terms of  
 15      a loan described in section 362(b)(18).”.

16      (e) PLAN CONFIRMATION.—Section 1325 of title 11,  
 17      United States Code, is amended—

18           (1) in subsection (b)(2) by striking “debtor  
 19      and” and inserting “debtor (not including income  
 20      that is withheld from the debtor’s wages for the pur-  
 21      poses stated in section 362(b)(18)) and”; and

22           (2) in subsection (c) by striking “income to”  
 23      and inserting “income (except income that is with-  
 24      held from a debtor’s wages for the purposes stated

1 in section 362(b)(18) after confirmation of a plan)  
 2 to”.

3 **SEC. 208. EXEMPTION.**

4 Section 109(b)(2) of title 11, United States Code, is  
 5 amended by inserting after “homestead association” the  
 6 following: “a small business investment company licensed  
 7 by the Small Business Administration under section 301  
 8 (c) or (d) of the Small Business Investment Act of 1958  
 9 (15 U.S.C. 681 (c) and (d)),”.

10 **SEC. 209. INDENTURE TRUSTEE COMPENSATION.**

11 Section 503(b) of title 11, United States Code, is  
 12 amended—

13 (1) in paragraph (3)—

14 (A) by redesignating subparagraphs (D)  
 15 and (E) as subparagraphs (E) and (F), respec-  
 16 tively;

17 (B) by inserting after subparagraph (C)  
 18 the following new subparagraph;

19 “(D) an indenture trustee;” and

20 (C) in subparagraph (E), as redesignated  
 21 by subparagraph (A), by striking “an indenture  
 22 trustee;” and

23 (2) in paragraph (5) by striking “for services  
 24 rendered by an indenture trustee in making a sub-

1       stantial contribution in a case under chapter 9 or 11  
2       of this title” and inserting “for necessary services”.

3       **SEC. 210. PAYMENT OF FEDERAL INTERNAL REVENUE**  
4       **TAXES WITH BORROWED FUNDS.**

5       Section 523(a) of title 11, United States Code, is  
6       amended—

7               (1) by striking “or” at the end of paragraph  
8       (11);

9               (2) by adding “or” at the end of paragraph  
10      (12); and

11              (3) by adding at the end the following new  
12      paragraph:

13              “(13) incurred to obtain funds with which to  
14      pay a tax imposed under the Internal Revenue Code  
15      of 1986.”.

16      **SEC. 211. RETURN OF GOODS.**

17      (a) **LIMITATION ON AVOIDING POWERS.**—Section  
18      546 of title 11, United States Code, is amended by adding  
19      at the end the following new subsection:

20              “(h) Notwithstanding the rights and powers of a  
21      trustee under sections 544(a), 545, 547, 549, and 553,  
22      if the court determines, after notice and a hearing, that  
23      a return is in the best interests of the estate, the debtor,  
24      with the consent of a creditor, may return goods shipped  
25      to the debtor by the creditor before the commencement

1 of the case, and the creditor may offset the value of such  
 2 goods against any claim of the creditor against the debtor  
 3 that arose before the commencement of the case.”.

4 (b) SETOFF.—Section 553(b)(1) is amended by in-  
 5 serting “546(h),” after “365(h)(2),”.

6 **SEC. 212. EXCEPTION TO DISCHARGE.**

7 Section 523(a)(2) of title 11, United States Code, is  
 8 amended by striking “forty” and inserting “60”.

9 **SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.**

10 Section 541(b) of title 11, United States Code, is  
 11 amended—

12 (1) by striking “or” at the end of paragraph  
 13 (2);

14 (2) by striking the period at the end of para-  
 15 graph (3) and inserting “; or”; and

16 (3) by adding at the end the following new  
 17 paragraph:

18 “(4) any interest in cash or cash equivalents  
 19 that constitute proceeds of a sale by the debtor of  
 20 a money order that is made—

21 “(A) on or after the date that is 14 days  
 22 prior to the date on which the petition is filed;  
 23 and

24 “(B) under an agreement with a money  
 25 order issuer that prohibits the commingling of



1           such proceeds with property of the debtor (not-  
 2           withstanding that, contrary to the agreement,  
 3           the proceeds may have been commingled with  
 4           property of the debtor),  
 5           unless the money order issuer had not taken action,  
 6           prior to the filing of the petition, to require compli-  
 7           ance with the prohibition.”.

8 **SEC. 214. LIMITATION ON LIABILITY OF NONINSIDER**  
 9 **TRANSFeree FOR AVOIDED TRANSFER.**

10       Section 550 of title 11, United States Code, is  
 11 amended—

12           (1) by redesignating subsections (b), (c), (d),  
 13           and (e) as subsections (c), (d), (e), and (f), respec-  
 14           tively; and

15           (2) by inserting after subsection (a) the follow-  
 16           ing new subsection:

17       “(b) The trustee may recover under subsection (a)  
 18       a transfer avoided under section 547(b) from a first trans-  
 19       feree or an immediate or mediate transferee of a first  
 20       transferee only to the extent that—

21           “(1) all the elements of section 547(b) are sat-  
 22           isfied as to the first transferee; and

23           “(2) the exceptions in section 547(c) do not  
 24           protect the first transferee.”.

1 **SEC. 215. PERFECTION OF PURCHASE-MONEY SECURITY IN-**  
 2 **TEREST.**

3 Section 547(c)(3)(B) of title 11, United States Code,  
 4 is amended by striking “10” and inserting “20”.

5 **SEC. 216. AIRPORT GATE LEASES.**

6 Section 365(d) of title 11, United States Code, is  
 7 amended by adding at the end the following new para-  
 8 graph:

9 “(5)(A) Notwithstanding paragraphs (1), (2), and  
 10 (4), and subject to subparagraphs (B) and (C) of this  
 11 paragraph, if the trustee in a case under any chapter of  
 12 this title does not assume or reject an unexpired lease or  
 13 executory contract with an airport operator under which  
 14 the debtor has a right to the use or possession of an air-  
 15 port terminal, aircraft gate, or related facility within 60  
 16 days after the date of the order for relief, or within such  
 17 additional time (not to exceed 120 additional days) as the  
 18 court sets during such 60-day period, such lease or execu-  
 19 tory contract is deemed rejected, and the trustee shall im-  
 20 mediately surrender the airport terminal, gate, or related  
 21 facility to the airport operator.

22 “(B)(i) The court may enter an order extending be-  
 23 yond 180 days after the date of the order for relief the  
 24 time for assumption or rejection of an unexpired lease or  
 25 executory contract described in subparagraph (A) only  
 26 after finding that such an extension of time does not cause

1 substantial harm to the airport operator or to airline pas-  
 2 sengers.

3       ~~“(ii) In making the determination of substantial~~  
 4 ~~harm, the court shall consider, among other relevant fac-~~  
 5 ~~tors—~~

6               ~~“(I) the level of use of airport terminals, gates,~~  
 7 ~~or related facilities subject to the unexpired lease or~~  
 8 ~~executory contract;~~

9               ~~“(II) the existence of competing demands for~~  
 10 ~~the use of the airport terminals, gates, or related fa-~~  
 11 ~~cilities;~~

12               ~~“(III) the size and complexity of the case; and~~

13               ~~“(IV) air carrier competition at the airport.~~

14       ~~“(iii) The burden of proof for establishing cause for~~  
 15 ~~an extension of time under this subparagraph shall be on~~  
 16 ~~the trustee.~~

17       ~~“(iv) An order entered under this subparagraph shall~~  
 18 ~~be without prejudice to the right of a party in interest~~  
 19 ~~to request, at any time, a shortening or termination of~~  
 20 ~~the extension of time granted under this subparagraph.”.~~

21 **SEC. 217. TRUSTEE DUTIES.**

22       Section 586(a)(3)(A) of title 28, United States Code,  
 23 is amended to read as follows:

24               ~~“(A)(i) reviewing, in accordance with pro-~~  
 25 ~~cedural and substantive guidelines adopted by~~

1 the Executive Office of the United States  
 2 Trustee (which guidelines shall be applied uni-  
 3 formly by the United States trustee except  
 4 when circumstances warrant different treat-  
 5 ment); applications filed for compensation and  
 6 reimbursement under section 330 of title 11;  
 7 and

8 “(ii) filing with the court comments with  
 9 respect to each such an application and, if the  
 10 United States Trustee considers it to be appro-  
 11 priate, objections to such application.

12 **SEC. 218. PAYMENTS.**

13 Section 1326(a)(2) of title 11, United States Code,  
 14 is amended in the second sentence by striking the period  
 15 and inserting “as soon as practicable.”.

16 **SEC. 219. SELLER'S RIGHT TO RECLAIM GOODS.**

17 Section 546(c)(1) of title 11, United States Code, is  
 18 amended by striking “ten” and inserting “30”.

19 **SEC. 220. PAYMENT OF INSURANCE BENEFITS TO RETIRED**  
 20 **EMPLOYEES.**

21 Section 1114(e) of title 11, United States Code, is  
 22 amended by adding at the end the following new para-  
 23 graph:

24 “(3) Notwithstanding any other provision of  
 25 this title, if there are not sufficient unencumbered

1 assets available to make a timely payment required  
 2 by paragraph (1), an order approving the use, sale,  
 3 or lease of cash collateral or the obtaining of credit  
 4 or incurring of debt shall require the debtor to use  
 5 such cash collateral, credit, or incurring of debt to  
 6 make the payment.”.

## 7 **TITLE III—CONSUMER** 8 **BANKRUPTCY ISSUES**

### 9 **SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO** 10 **PRINCIPAL RESIDENCE.**

11 Section 1322 of title 11, United States Code, as  
 12 amended by section 207(d), is amended—

13 (1) by redesignating subsections (c) and (d) as  
 14 subsections (d) and (e); and

15 (2) by inserting after subsection (b) the follow-  
 16 ing new subsection:

17 “(c) Notwithstanding State law and subsection  
 18 (b)(2), and whether or not a claim is matured or reduced  
 19 to judgment, a debtor who at the time of filing a petition  
 20 under this title possesses any legal or equitable interest,  
 21 including a right of redemption, in real property securing  
 22 a claim—

23 “(1) may cure a default and maintain payments  
 24 on the claim pursuant to subsection (b) (3) or (5);  
 25 or

1           “(2) in a case in which the last payment on the  
 2           original payment schedule for the claim is due before  
 3           the date on which the final payment under the plan  
 4           is due, may provide for the payment of the claim  
 5           pursuant to section 1325(a)(5).”.

6   **SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAP-**  
 7                           **TER 13.**

8           Section 1328(a)(3) of title 11, United States Code,  
 9   is amended by inserting “, or a fine to the extent such  
 10   fine exceeds \$500, ” after “restitution”.

11   **SEC. 303. PROTECTION OF CHILD SUPPORT AND ALIMONY.**

12           (a) RELIEF FROM AUTOMATIC STAY.—Section  
 13   362(b)(2) of title 11, United States Code, is amended to  
 14   read as follows:

15           “(2) under subsection (a) of this section—

16                   “(A) of the commencement or continuation  
 17           of an action or proceeding for—

18                           “(i) the establishment of paternity; or

19                           “(ii) the establishment or modification  
 20           of an order for alimony, maintenance, or  
 21           support; or

22                   “(B) of the collection of alimony, mainte-  
 23           nance, or support from property that is not  
 24           property of the estate;”.

25           (b) PRIORITY OF CLAIMS.—

(1) ALIMONY OR SUPPORT.—Section 507(a) of title 11, United States Code, is amended—

(A) in paragraph (8) by striking “(8) Eighth” and inserting “(9) Ninth”;

(B) in paragraph (7) by striking “(7) Seventh” and inserting “(8) Eighth”; and

(C) by inserting after paragraph (6) the following new paragraph:

“(7) Eighth, allowed claims for debts to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

“(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

“(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.”.

(2) TECHNICAL AMENDMENTS.—Title 11, United States Code, is amended—

1           (A) in section 502(i) by striking  
2           “507(a)(7)” and inserting “507(a)(8)”;

3           (B) in section 503(b)(1)(B)(i) by striking  
4           “507(a)(7)” and inserting “507(a)(8)”;

5           (C) in section 523(a)(1)(A) by striking  
6           “507(a)(7)” and inserting “507(a)(8)”;

7           (D) in section 724(b)(2) by striking “or  
8           507(a)(6)” and inserting “507(a)(6), or  
9           507(a)(7)”;

10          (E) in section 726(b) by striking “or (7)”  
11          and inserting “, (7), or (8)”;

12          (F) in section 1123(a)(1) by striking  
13          “507(a)(7)” and inserting “507(a)(8)”; and

14          (G) in section 1129(a)(9)—

15               (i) in subparagraph (B) by striking  
16               “or 507(a)(6)” and inserting “, 507(a)(6),  
17               or 507(a)(7)”;

18               (ii) in subparagraph (C) by striking  
19               “507(a)(7)” and inserting “507(a)(8)”.

20          (c) PROTECTION OF LIENS.—Section 522(f)(1) of  
21          title 11, United States Code, is amended to read as fol-  
22          lows:

23               “(1) a judicial lien (other than a judicial lien  
24               that secures a debt to a spouse, former spouse, or  
25               child of the debtor, for alimony to, maintenance for,



1 or support of the spouse or child, in connection with  
 2 a separation agreement, divorce decree or other  
 3 order of a court of record, determination made in  
 4 accordance with State or territorial law by a govern-  
 5 mental unit, or property settlement agreement, to  
 6 the extent that the debt—

7 “(A) is not assigned to another entity, vol-  
 8 untarily, by operation of law, or otherwise; and

9 “(B) includes a liability designated as ali-  
 10 mony, maintenance, or support, unless such li-  
 11 ability is actually in the nature of alimony,  
 12 maintenance or support).”.

13 (d) PROTECTION AGAINST TRUSTEE AVOIDANCE.—

14 Section 547(c) of title 11, United States Code, is amend-  
 15 ed—

16 (1) by striking “or” at the end of para-  
 17 graph (6);

18 (2) by redesignating paragraph (7) as  
 19 paragraph (8); and

20 (3) by inserting after paragraph (6) the  
 21 following new paragraph:

22 “(7) to the extent that the transfer was a bona  
 23 fide payment of a debt to a spouse, former spouse,  
 24 or child of the debtor, for alimony to, maintenance  
 25 for, or support of such spouse or child, in connection

1 with a separation agreement, divorce decree or other  
 2 order of a court of record, determination made in  
 3 accordance with State or territorial law by a govern-  
 4 mental unit, or property settlement agreement, but  
 5 not to the extent that such debt—

6 “(A) is assigned to another entity, volun-  
 7 tarily, by operation of law, or otherwise; or

8 “(B) includes a liability designated as ali-  
 9 mony, maintenance, or support, unless such li-  
 10 ability is actually in the nature of alimony,  
 11 maintenance or support; or”.

12 (c) APPEARANCE BEFORE COURT.—A child support  
 13 creditor or its representative shall be permitted to appear  
 14 and intervene without charge and without meeting any  
 15 special local court rule requirement for attorney appear-  
 16 ances in any bankruptcy proceeding in any bankruptcy  
 17 court or district court of the United States if the creditor  
 18 or representative files with the court a statement describ-  
 19 ing in detail the child support debt, its status, and other  
 20 characteristics.

21 **SEC. 304. BANKRUPTCY PETITION PREPARERS.**

22 (a) AMENDMENT OF CHAPTER 1.—

23 (1) IN GENERAL.—Chapter 1 of title 11, United  
 24 States Code, is amended by adding at the end the  
 25 following new section:

1 **“SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**  
2 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**  
3 **TITIONS.**

4 “(a) DEFINITION.—In this section—

5 “‘bankruptcy petition preparer’ means a per-  
6 son, other than an attorney or an employee of an at-  
7 torney, who prepares for compensation a document  
8 for filing.

9 “‘document for filing’ means a petition or any  
10 other document prepared for filing by a debtor in a  
11 United States bankruptcy court or a United States  
12 district court in connection with a case under this  
13 title.

14 “(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy  
15 petition preparer who prepares a document for filing shall  
16 sign the document and print on the document the prepar-  
17 er’s name and address.

18 “(2) A bankruptcy petition preparer who fails to com-  
19 ply with paragraph (1) may be fined not more than \$500  
20 for each such failure unless the failure is due to reasonable  
21 cause.

22 “(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A  
23 bankruptcy petition preparer who prepares a document for  
24 filing shall place on the document, after the preparer’s sig-  
25 nature, an identifying number that identifies the individ-  
26 uals who prepared the document.

1       ~~“(2) For purposes of this section, the identifying~~  
 2       ~~number of a bankruptcy petition preparer shall be the So-~~  
 3       ~~cial Security account number of each individual who pre-~~  
 4       ~~pared the document or assisted in its preparation.~~

5       ~~“(3) A bankruptcy petition preparer who fails to com-~~  
 6       ~~ply with paragraph (1) may be fined not more than \$500~~  
 7       ~~for each such failure unless the failure is due to reasonable~~  
 8       ~~cause.~~

9       ~~“(d) FURNISHING OF COPY TO THE DEBTOR.—(1)~~  
 10       ~~A bankruptcy petition preparer shall, not later than the~~  
 11       ~~time at which a document for filing is presented for the~~  
 12       ~~debtor’s signature, furnish to the debtor a copy of the doc-~~  
 13       ~~ument.~~

14       ~~“(2) A bankruptcy petition preparer who fails to com-~~  
 15       ~~ply with paragraph (1) may be fined not more than \$500~~  
 16       ~~for each such failure unless the failure is due to reasonable~~  
 17       ~~cause.~~

18       ~~“(e) AUTHORIZATION TO EXECUTE DOCUMENTS.—~~  
 19       ~~(1) A bankruptcy petition preparer shall not execute any~~  
 20       ~~document on behalf of a debtor unless—~~

21               ~~“(A) the debtor has first given the preparer~~  
 22       ~~written authorization to execute the document; and~~

23               ~~“(B) the preparer is otherwise authorized by~~  
 24       ~~law to execute the document.~~

1       “(2) A bankruptcy petition preparer may be fined not  
2 more than \$500 for each document executed in violation  
3 of paragraph (1).

4       “(f) DAMAGES.—If a bankruptcy case or related pro-  
5 ceeding is dismissed because of the negligence or inten-  
6 tional disregard of this title or the bankruptcy rules by  
7 a bankruptcy petition preparer, or if a bankruptcy petition  
8 preparer violates this section or commits any fraudulent,  
9 unfair, or deceptive act, the bankruptcy court shall certify  
10 that fact to the district court, and the district court, on  
11 motion of the debtor and after a hearing, shall order the  
12 bankruptcy petition preparer to pay to the debtor—

13               “(1) the debtor’s actual damages;

14               “(2) the greater of—

15                       “(A) \$2,000; or

16                       “(B) twice the amount paid by the debtor  
17 to the bankruptcy petition preparer for the pre-  
18 parer’s services; and

19               “(3) reasonable attorneys’ fees and costs in  
20 moving for damages under this subsection.

21       “(g) INJUNCTIVE RELIEF.—

22               “(1) IN GENERAL.—A debtor for whom a bank-  
23 ruptcy petition preparer has prepared as document  
24 for filing, the United States trustee in the district in  
25 which the bankruptcy petition preparer resides or

1 has a principal place of business, or the United  
2 States trustee in the district in which the debtor re-  
3 sides may bring a civil action to enjoin a bankruptcy  
4 petition preparer from engaging in any conduct in  
5 violation of this section or from further acting as a  
6 bankruptcy petition preparer.

7 “(2) CONDUCT.—(A) In an action under para-  
8 graph (1), if the court finds that—

9 “(i) a bankruptcy petition preparer has—

10 “(I) engaged in conduct in violation of  
11 this section or of any provision of this title  
12 a violation of which subjects a person to  
13 criminal penalty;

14 “(II) misrepresented the preparer’s  
15 experience or education as a bankruptcy  
16 petition preparer; or

17 “(III) engaged in any other fraudu-  
18 lent, unfair, or deceptive conduct; and

19 “(ii) injunctive relief is appropriate to pre-  
20 vent the recurrence of such conduct,

21 the court may enjoin the bankruptcy petition pre-  
22 parer from engaging in such conduct.

23 “(B) If the court finds that a bankruptcy peti-  
24 tion preparer has continually engaged in conduct de-  
25 scribed in clause (i) (I), (II), or (III) and that an

1 injunction prohibiting such conduct would not be  
 2 sufficient to prevent such person's interference with  
 3 the proper administration of this title, or has not  
 4 paid a penalty imposed under this section, the court  
 5 may enjoin the person from acting as a bankruptcy  
 6 petition preparer.

7 “(3) ATTORNEY'S FEE.—The court shall award  
 8 to a debtor who brings a successful action under this  
 9 subsection reasonable attorney's fees and costs of  
 10 the action.

11 “(h) UNAUTHORIZED PRACTICE OF LAW.—Nothing  
 12 in this section shall be construed to permit activities that  
 13 are otherwise prohibited by law, including rules and laws  
 14 that prohibit the unauthorized practice of law.”.

15 (2) TECHNICAL AMENDMENT.—The chapter  
 16 analysis for chapter 4 of title 11, United states  
 17 Code, is amended by adding at the end the following  
 18 new item:

“110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.”.

19 (b) AMENDMENT OF TITLE 18, UNITED STATES  
 20 CODE.—

21 (1) OFFENSES.—Chapter 9 of title 18, United  
 22 States Code, is amended—

23 (A) by amending sections 152, 153, and  
 24 154 to read as follows:

1 **~~“§ 152. Concealment of assets; false oaths and claims;~~**  
2 **~~bribery~~**

3 “A person who—

4 “(1) knowingly and fraudulently conceals from  
5 a custodian, trustee, marshal, or other officer of the  
6 court charged with the control or custody of prop-  
7 erty, or, in connection with a case under title 11,  
8 from creditors or the United States Trustee, any  
9 property belonging to the estate of a debtor;

10 “(2) knowingly and fraudulently makes a false  
11 oath or account in or in relation to any case under  
12 title 11;

13 “(3) knowingly and fraudulently makes a false  
14 declaration, certificate, verification, or statement  
15 under penalty of perjury as permitted under section  
16 1746 of title 28, in or in relation to any case under  
17 title 11;

18 “(4) knowingly and fraudulently presents any  
19 false claim for proof against the estate of a debtor,  
20 or uses any such claim in any case under title 11,  
21 in a personal capacity or as or through an agent,  
22 proxy, or attorney;

23 “(5) knowingly and fraudulently receives any  
24 material amount of property from a debtor after the  
25 filing of a case under title 11, with intent to defeat  
26 the provisions of title 11;



1           ~~“(6) knowingly and fraudulently gives, offers,~~  
2           ~~receives, or attempts to obtain any money or prop-~~  
3           ~~erty, remuneration, compensation, reward, advan-~~  
4           ~~tage, or promise thereof for acting or forbearing to~~  
5           ~~act in any case under title 11;~~

6           ~~“(7) in a personal capacity or as an agent or~~  
7           ~~officer of any person or corporation, in contempla-~~  
8           ~~tion of a case under title 11 by or against the person~~  
9           ~~or any other person or corporation, or with intent to~~  
10          ~~defeat the provisions of title 11, knowingly and~~  
11          ~~fraudulently transfers or conceals any of his prop-~~  
12          ~~erty or the property of such other person or corpora-~~  
13          ~~tion;~~

14          ~~“(8) after the filing of a case under title 11 or~~  
15          ~~in contemplation thereof, knowingly and fraudulently~~  
16          ~~conceals, destroys, mutilates, falsifies, or makes a~~  
17          ~~false entry in any recorded information (including~~  
18          ~~books, documents, records, and papers) relating to~~  
19          ~~the property or financial affairs of a debtor; or~~

20          ~~“(9) after the filing of a case under title 11,~~  
21          ~~knowingly and fraudulently withholds from a custo-~~  
22          ~~dian, trustee, marshal, or other officer of the court~~  
23          ~~or a United States Trustee entitled to its possession,~~  
24          ~~any recorded information (including books, docu-~~

1       ments, records, and papers) relating to the property  
 2       or financial affairs of a debtor,  
 3       shall be fined not more than \$5,000, imprisoned not more  
 4       than 5 years, or both.

5       **“§ 153. Embezzlement against estate**

6       “~~(a) OFFENSE.—~~A person described in subsection (b)  
 7       who knowingly and fraudulently appropriates to the per-  
 8       son’s own use, embezzles, spends, or transfers any prop-  
 9       erty or secretes or destroys any document belonging to the  
 10      estate of a debtor shall be fined not more than \$5,000,  
 11      imprisoned not more than 5 years, or both.

12      “~~(b) PERSON TO WHOM SECTION APPLIES.—~~A per-  
 13      son described in this subsection is one who has access to  
 14      property or documents belonging to an estate by virtue  
 15      of the person’s participation in the administration of the  
 16      estate as a trustee, custodian, marshal, attorney, or other  
 17      officer of the court or as an agent, employee, or other per-  
 18      son engaged by such an officer to perform a service with  
 19      respect to the estate.

20      **“§ 154. Adverse interest and conduct of officers**

21      “~~A person who, being a custodian, trustee, marshal,~~  
 22      ~~or other officer of the court—~~

23              “~~(1) knowingly purchases, directly or indirectly,~~  
 24              any property of the estate of which the person is  
 25              such an officer in a case under title 11;

1           “(2) knowingly refuses to permit a reasonable  
2           opportunity for the inspection by parties in interest  
3           of the documents and accounts relating to the af-  
4           fairs of estates in the person’s charge by parties  
5           when directed by the court to do so; or

6           “(3) knowingly refuses to permit a reasonable  
7           opportunity for the inspection by the United States  
8           Trustee of the documents and accounts relating to  
9           the affairs of states in the person’s charge,  
10          shall be fined not more than \$5000 and shall forfeit the  
11          person’s office, which shall thereupon become vacant.”;  
12          and

13                        (B) by adding at the end the following new  
14                        section:

15   **“§ 156. Willful disregard of bankruptcy law or rule**

16           “(a) DEFINITIONS.—In this section—

17                        “‘bankruptcy petition preparer’ means a per-  
18                        son, other than an attorney or an employee of an at-  
19                        torney, who prepares for compensation a document  
20                        for filing.

21                        “‘document for filing’ means a petition or any  
22                        other document prepared for filing by a debtor in a  
23                        United States bankruptcy court or a United States  
24                        district court in connection with a case under this  
25                        title.

1       “(b) OFFENSE.—If a bankruptcy case or related pro-  
 2 ceeding is dismissed because of a willful attempt by a  
 3 bankruptcy petition preparer in any manner to disregard  
 4 the requirements of title 11, United States Code, or the  
 5 Bankruptcy Rules, the bankruptcy petition preparer shall  
 6 be fined \$5,000.”.

7           (2) TECHNICAL AMENDMENTS.—The chapter  
 8 analysis for chapter 9 of title 18, United States  
 9 Code, is amended—

10           (A) by amending the item relating to sec-  
 11 tion 153 to read as follows:

“Sec. 153. Embezzlement against estate.”;

12           and

13           (B) by adding at the end the following new  
 14 item:

“Sec. 156. Willful disregard of bankruptcy law or rule.”.

15 **SEC. 305. CONVERSION OR DISMISSAL.**

16       Section 1307 of title 11, United States Code, is  
 17 amended by adding at the end the following new sub-  
 18 section:

19       “(g) The clerk of the court shall give notice to all  
 20 creditors not later than 30 days after the entry of an order  
 21 of conversion or dismissal.”.

22 **SEC. 306. CONTENTS OF PLAN.**

23       Section 1322(b)(2) of title 11, United States Code,  
 24 is amended by striking “claims;” and inserting “claims;

1 but the plan may not modify a claim pursuant to section  
 2 506 of a person holding a primary or a junior security  
 3 interest in real property or a manufactured home (as de-  
 4 fined in section 603(6) of the National Manufactured  
 5 Housing Construction and Safety Standards Act of 1974  
 6 (42 U.S.C. 5402(6)) that is the debtor's principal resi-  
 7 dence, except that the plan may modify the claim of a per-  
 8 son holding such a junior security interest that was  
 9 undersecured at the time the interest attached to the ex-  
 10 tent that the interest remains undersecured;”.

11 **SEC. 307. STAY OF ACTION AGAINST CODEBTOR.**

12 Section 1301 of title 11, United States Code, is  
 13 amended—

14 (1) in subsection (c)—

15 (A) by striking “or” at the end of para-  
 16 graph (2);

17 (B) by striking the period at the end of  
 18 paragraph (3) and inserting “; or”; and

19 (C) by adding at the end the following new  
 20 paragraph:

21 “(4) the claim is for an amount valued at not  
 22 greater than \$25,000, and such relief is not a sub-  
 23 stantial impediment to an effective reorganization by  
 24 the debtor, and unless the codebtor has dem-

1       onstrated an inability to pay such claim or a sub-  
2       stantial portion of such claim.”; and

3               (2) by adding at the end the following new sub-  
4       section:

5       “(e) If the relief sought by the creditor pursuant to  
6       subsection (c)(4) is granted by the court, the codebtor  
7       shall by subrogation have the same rights as the creditor,  
8       under this title, against the debtor to the extent of the  
9       amount of relief obtained from the codebtor. Pending any  
10      delay in obtaining relief from the codebtor, after the court  
11      order, payment by the debtor shall continue to be paid  
12      to the creditor, but subject to the developing subrogation  
13      rights of the codebtor.”.

14   **SEC. 308. EXEMPTION FOR HOUSEHOLD GOODS.**

15       Section 522(a) of title 11, United States Code, is  
16      amended—

17               (1) by striking “and” at the end of paragraph  
18       (1) and redesignating that paragraph as paragraph  
19       (2);

20               (2) by inserting before paragraph (2), as redes-  
21      ignated by paragraph (1), the following new para-  
22      graph:

23               “(1) ‘antique’, for purposes of subsection (d),  
24      means an item that was more than 100 years old at  
25      the time it was acquired by the debtor, including

1       such an item that has been repaired or renovated  
2       without changing its original form or character;”;

3           ~~(3)~~ by redesignating paragraph ~~(2)~~, as des-  
4       ignated prior to the date of enactment of this Act,  
5       as paragraph ~~(4)~~; and

6           ~~(4)~~ by inserting after paragraph ~~(2)~~, as redesign-  
7       ated by paragraph ~~(1)~~, the following new para-  
8       graph:

9           ~~“(3) ‘household goods’, for purposes of sub-~~  
10       ~~section (d), means clothing, furniture, appliances,~~  
11       ~~linens, china, crockery, kitchenware, and personal ef-~~  
12       ~~fects of the debtor and the debtor’s dependents, but~~  
13       ~~does not include—~~

14               ~~“(A) works of art;~~

15               ~~“(B) electronic entertainment equipment~~  
16       ~~(except to the extent of 1 television and 1~~  
17       ~~radio);~~

18               ~~“(C) antiques; and~~

19               ~~“(D) jewelry other than wedding rings.”.~~

20   **SEC. 309. PROFESSIONAL FEES.**

21       Section 330(a) of title 11, United States Code, is  
22       amended to read as follows:

23       ~~“(a)(1) After notice to the parties in interest and the~~  
24       ~~United States trustee and a hearing, and subject to sec-~~  
25       ~~tions 326, 328, and 329, the court may award to a trustee,~~

1 an examiner, a professional person employed under section  
 2 327 or 1103, or the debtor's attorney, after considering  
 3 comments and objections submitted by the United States  
 4 Trustee in conformance with guidelines adopted by the  
 5 Executive Office for United States Trustees pursuant to  
 6 section ~~586(a)(3)(A)~~ of title 28—

7           ~~“(A) reasonable compensation for actual, nec-~~  
 8           ~~essary services rendered by the trustee, examiner,~~  
 9           ~~professional person, or attorney and by any para-~~  
 10           ~~professional person employed by any such person;~~  
 11           ~~and~~

12           ~~“(B) reimbursement for actual, necessary ex-~~  
 13           ~~penses.~~

14           ~~“(2)(A) In determining an amount of reasonable~~  
 15           ~~compensation to be awarded under paragraph (1)(A), the~~  
 16           ~~court—~~

17           ~~“(i) may, on its motion or on the motion of the~~  
 18           ~~United States trustee or any party in interest, award~~  
 19           ~~compensation that is less than the amount of com-~~  
 20           ~~pensation that is requested; and~~

21           ~~“(ii) shall consider the nature, the extent, and~~  
 22           ~~the value of such services, taking into account all~~  
 23           ~~relevant factors, including—~~

24                   ~~“(I) the time spent on such services;~~

25                   ~~“(II) the rates charged for such services;~~



1           “(III) whether the services were necessary  
2           in the administration of or beneficial toward the  
3           completion of a case under this title; and

4           “(IV) the total value of the estate and the  
5           amount of funds or other property available for  
6           distribution to all creditors both secured and  
7           unsecured.

8           “(B) In calculating compensation for services for the  
9           purpose of subparagraph (A)(ii), the court shall con-  
10          sider—

11           “(i) whether tasks were performed within a rea-  
12           sonable amount of time commensurate with the com-  
13           plexity, importance and nature of the problem, issue  
14           or task addressed; and

15           “(ii) whether the compensation is reasonable  
16           based on the customary compensation charged by  
17           comparably skilled practitioners in nonbankruptcy  
18           cases.

19           “(3) The court shall not allow compensation for du-  
20           plication of services or for services that are not either rea-  
21           sonably likely to benefit the debtor’s estate or necessary  
22           in the administration of the case.

23           “(4)(A) The court shall take into account the amount  
24           and timing of interim compensation, if any awarded and  
25           paid, in awarding final compensation.

1       “(B) If interim compensation was awarded and paid  
 2 in an amount that exceeds the amount the court awards  
 3 as final compensation the court may order the return of  
 4 the excess to the trustee or other entity that paid it.

5       “(5) In determining the amount to be awarded for  
 6 the preparation of fee applications, the court shall recog-  
 7 nize the difference between the cost of professional serv-  
 8 ices and services for the preparation of fee applications.  
 9 The costs awarded for the preparation of fee applications  
 10 shall be reasonable and based on the level of skill re-  
 11 quired.”.

## 12   **TITLE IV—BANKRUPTCY REVIEW** 13                           **COMMISSION**

### 14   **SEC. 401. SHORT TITLE.**

15       This title may be cited as the “National Bankruptcy  
 16 Review Commission Act”.

### 17   **SEC. 402. ESTABLISHMENT.**

18       There is established the National Bankruptcy Review  
 19 Commission (referred to as the “Commission”).

### 20   **SEC. 403. DUTIES OF THE COMMISSION.**

21       The duties of the Commission are—

22           (1) to investigate and study issues and prob-  
 23 lems relating to title 11, United States Code (com-  
 24 monly known as the “Bankruptcy Code”);

1           (2) to evaluate the advisability of proposals and  
2           current arrangements with respect to such issues  
3           and problems;

4           (3) to prepare and submit to the Congress, the  
5           Chief Justice, and the President a report in accord-  
6           ance with section 408; and

7           (4) to solicit divergent views of all parties con-  
8           cerned with the operation of the bankruptcy system.

9   **SEC. 404. MEMBERSHIP.**

10       (a) **NUMBER AND APPOINTMENT.**—The Commission  
11       shall be composed of 9 members as follows:

12           (1) Three members appointed by the President,  
13       1 of whom shall be designated as chairman by the  
14       President.

15           (2) One member shall be appointed by the  
16       President pro tempore of the Senate.

17           (3) One member shall be appointed by the Mi-  
18       nority Leader of the Senate.

19           (4) One member shall be appointed by the  
20       Speaker of the House of Representatives.

21           (5) One member shall be appointed by the Mi-  
22       nority Leader of the House of Representatives.

23           (6) Two members appointed by the Chief Jus-  
24       tice.

1       (b) ~~TERM.~~—Members of the Commission shall be ap-  
2   pointed for the life of the Commission.

3       (c) ~~QUORUM.~~—Five members of the Commission  
4   shall constitute a quorum, but a lesser number may con-  
5   duct meetings.

6       (d) ~~APPOINTMENT DEADLINE.~~—The first appoint-  
7   ments made under subsection (a) shall be made within 60  
8   days after the date of enactment of this Act.

9       (e) ~~FIRST MEETING.~~—The first meeting of the Com-  
10   mission shall be called by the chairman and shall be held  
11   within 90 days after the date of enactment of this Act.

12      (f) ~~VACANCY.~~—A vacancy on the Commission result-  
13   ing from the death or resignation of a member shall not  
14   affect its powers and shall be filled in the same manner  
15   in which the original appointment was made.

16      (g) ~~CONTINUATION OF MEMBERSHIP.~~—If any mem-  
17   ber of the Commission who was appointed to the Commis-  
18   sion as a member of Congress or as an officer or employee  
19   of a government leaves that office, or if any member of  
20   the Commission who was not appointed in such a capacity  
21   becomes an officer or employee of a government, the mem-  
22   ber may continue as a member of the Commission for not  
23   longer than the 90-day period beginning on the date the  
24   member leaves that office or becomes such an officer or  
25   employee, as the case may be.

1       ~~(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior~~  
 2       to the appointment of members of the Commission, the  
 3       President, the President pro tempore of the Senate, the  
 4       Speaker of the House of Representatives, and the Chief  
 5       Justice shall consult with each other to ensure fair and  
 6       equitable representation of various points of view in the  
 7       Commission and its staff.

8       **SEC. 405. COMPENSATION OF THE COMMISSION.**

9       ~~(a) PAY.—~~

10       ~~(1) NONGOVERNMENT EMPLOYEES.—Each~~  
 11       member of the Commission who is not otherwise em-  
 12       ployed by the United States Government shall be en-  
 13       titled to receive the daily equivalent of the annual  
 14       rate of basic pay payable for level IV of the Execu-  
 15       tive Schedule under section 5315 of title 5, United  
 16       States Code, for each day (including travel time)  
 17       during which he or she is engaged in the actual per-  
 18       formance of duties as a member of the Commission.

19       ~~(2) GOVERNMENT EMPLOYEES.—A member of~~  
 20       the Commission who is an officer or employee of the  
 21       United States Government shall serve without addi-  
 22       tional compensation.

23       ~~(b) TRAVEL.—Members of the Commission shall be~~  
 24       reimbursed for travel, subsistence, and other necessary ex-

1 penses incurred by them in the performance of their du-  
2 ties.

3 **SEC. 406. STAFF OF COMMISSION; EXPERTS AND CONSULT-**  
4 **ANTS.**

5 (a) STAFF.—

6 (1) APPOINTMENT.—The chairman of the Com-  
7 mission may, without regard to the civil service laws  
8 and regulations, appoint, and terminate an executive  
9 director and such other personnel as are necessary  
10 to enable the Commission to perform its duties. The  
11 employment of an executive director shall be subject  
12 to confirmation by the Commission.

13 (2) COMPENSATION.—The chairman of the  
14 Commission may fix the compensation of the execu-  
15 tive director and other personnel without regard to  
16 the provisions of chapter 51 and subchapter II of  
17 chapter 53 of title 5, United States Code, relating  
18 to classification of positions and General Schedule  
19 pay rates, except that the rate of pay for the execu-  
20 tive director and other personnel may not exceed the  
21 rate payable for level V of the Executive Schedule  
22 under section 5316 of that title.

23 (b) EXPERTS AND CONSULTANTS.—The Commission  
24 may procure temporary and intermittent services of ex-

1 perts and consultants under section 3109(b) of title 5,  
2 United States Code.

3 **SEC. 407. POWERS OF THE COMMISSION.**

4       (a) ~~HEARINGS AND MEETINGS.~~—The Commission or,  
5 on authorization of the Commission, a member of the  
6 Commission, may hold such hearings, sit and act at such  
7 time and places, take such testimony, and receive such evi-  
8 dence, as the Commission considers appropriate. The  
9 Commission or a member of the Commission may admin-  
10 ister oaths or affirmations to witnesses appearing before  
11 it.

12       (b) ~~OFFICIAL DATA.~~—The Commission may secure  
13 directly from any Federal department, agency, or court  
14 information necessary to enable it to carry out this title.  
15 Upon request of the chairman of the Commission, the  
16 head of a Federal department or agency or chief judge  
17 of a Federal court shall furnish such information, consist-  
18 ent with law, to the Commission.

19       (c) ~~FACILITIES AND SUPPORT SERVICES.~~—The Ad-  
20 ministrator of General Services shall provide to the Com-  
21 mission on a reimbursable basis such facilities and support  
22 services as the Commission may request. Upon request of  
23 the Commission, the head of a Federal department or  
24 agency may make any of the facilities or services of the

1 agency available to the Commission to assist the Commis-  
2 sion in carrying out its duties under this title.

3       (d) ~~EXPENDITURES AND CONTRACTS.~~—The Commis-  
4 sion ~~or, on authorization of the Commission, a member~~  
5 of the Commission may make expenditures and enter into  
6 contracts for the procurement of such supplies, services,  
7 and property as the Commission or member considers ap-  
8 propriate for the purposes of carrying out the duties of  
9 the Commission. Such expenditures and contracts may be  
10 made only to such extent or in such amounts as are pro-  
11 vided in appropriation Acts.

12       (e) ~~MAILS.~~—The Commission may use the United  
13 States mails in the same manner and under the same con-  
14 ditions as other Federal departments and agencies of the  
15 United States.

16       (f) ~~GIFTS.~~—The Commission may accept, use, and  
17 dispose of gifts or donations of services or property.

18 **SEC. 408. REPORT.**

19       The Commission shall submit to the Congress, the  
20 Chief Justice, and the President a report not later than  
21 2 years after the date of its first meeting. The report shall  
22 contain a detailed statement of the findings and conclu-  
23 sions of the Commission, together with its recommenda-  
24 tions for such legislative or administrative action as it con-  
25 siders appropriate.



1 **SEC. 409. TERMINATION.**

2 The Commission shall cease to exist on the date that  
3 is 30 days after the date on which it submits its report  
4 under section 408.

5 **SEC. 410. AUTHORIZATION OF APPROPRIATIONS.**

6 There is authorized to be appropriated \$1,500,000 to  
7 carry out this title.

8 **TITLE V—TECHNICAL**  
9 **CORRECTIONS**

10 **SEC. 501. TITLE 11, UNITED STATES CODE.**

11 (a) ~~ALPHABETIZATION AND ELIMINATION OF PARA-~~  
12 ~~GRAPH DESIGNATIONS.~~—Section 101 of title 11, United  
13 States Code, is amended to read as follows:

14 **“§ 101. Definitions**

15 “In this title—

16 “‘accountant’ means an accountant authorized  
17 under applicable law to practice public accounting,  
18 and includes professional accounting association,  
19 corporation, or partnership, if so authorized.

20 “‘affiliate’ means—

21 “(A) an entity that directly or indirectly  
22 owns, controls, or holds with power to vote, 20  
23 percent or more of the outstanding voting secu-  
24 rities of the debtor, other than an entity that  
25 holds such securities—

1           “(i) in a fiduciary or agency capacity  
2           without sole discretionary power to vote  
3           such securities; or

4           “(ii) solely to secure a debt, if such  
5           entity has not in fact exercised such power  
6           to vote;

7           “(B) a corporation 20 percent or more of  
8           whose outstanding voting securities are directly  
9           or indirectly owned, controlled, or held with  
10          power to vote, by the debtor, or by an entity  
11          that directly or indirectly owns, controls, or  
12          holds with power to vote, 20 percent or more of  
13          the outstanding voting securities of the debtor,  
14          other than an entity that holds such securi-  
15          ties—

16          “(i) in a fiduciary or agency capacity  
17          without sole discretionary power to vote  
18          such securities; or

19          “(ii) solely to secure a debt, if such  
20          entity has not in fact exercised such power  
21          to vote;

22          “(C) a person whose business is operated  
23          under a lease or operating agreement by a debt-  
24          or, or person substantially all of whose property

1 is operated under an operating agreement with  
2 the debtor; or

3 “(D) an entity that operates the business  
4 or substantially all of the property of the debtor  
5 under a lease or operating agreement.

6 “‘attorney’ means an attorney, professional law  
7 association, corporation, or partnership, authorized  
8 under applicable law to practice law.

9 “‘claim’ means—

10 “(A) a right to payment, whether or not  
11 such right is reduced to judgment, liquidated,  
12 unliquidated, fixed, contingent, matured,  
13 unmatured, disputed, undisputed, legal, equi-  
14 table, secured, or unsecured; or

15 “(B) a right to an equitable remedy for  
16 breach of performance if such breach gives rise  
17 to a right to payment, whether or not such  
18 right to an equitable remedy is reduced to judg-  
19 ment, fixed, contingent, matured, unmatured,  
20 disputed, undisputed, secured, or unsecured.

21 “‘commodity broker’ means a futures commis-  
22 sion merchant, foreign futures commission mer-  
23 chant, clearing organization, leverage transaction  
24 merchant, or commodity options dealer (as defined

1 in section 761) with respect to which there is a cus-  
2 tomer (as defined in section 761).

3 “‘community claim’ means a claim that arose  
4 before the commencement of the case concerning the  
5 debtor for which property of the kind specified in  
6 section 541(a)(2) is liable, whether or not there is  
7 any such property at the time of the commencement  
8 of the case.

9 “‘consumer debt’ means debt incurred by an  
10 individual primarily for a personal, family, or house-  
11 hold purpose.

12 “‘corporation’—

13 “(A) includes—

14 “(i) an association having a power or  
15 privilege that a private corporation, but  
16 not an individual or a partnership, pos-  
17 sesses;

18 “(ii) a partnership association orga-  
19 nized under a law that makes only the cap-  
20 ital subscribed responsible for the debts of  
21 such association;

22 “(iii) a joint-stock company;

23 “(iv) an unincorporated company or  
24 association; or

25 “(v) a business trust; but

1           “(B) does not include a limited partner-  
2 ship.

3           “‘creditor’ means—

4           “(A) an entity that has a claim against the  
5 debtor that arose at the time of or before the  
6 order for relief concerning the debtor;

7           “(B) an entity that has a claim against the  
8 estate of a kind specified in section 348(d),  
9 502(f), 502(g), 502(h), or 502(i); or

10          “(C) an entity that has a community  
11 claim.

12          “‘custodian’ means—

13          “(A) a receiver or trustee of any of the  
14 property of the debtor, appointed in a case or  
15 proceeding not under this title;

16          “(B) an assignee under a general assign-  
17 ment for the benefit of the debtor’s creditors; or

18          “(C) a trustee, receiver, or agent under ap-  
19 plicable law, or under a contract, that is ap-  
20 pointed or authorized to take charge of property  
21 of the debtor for the purpose of enforcing a lien  
22 against such property, or for the purpose of  
23 general administration of such property for the  
24 benefit of the debtor’s creditors.

25          “‘debt’ means liability on a claim.

1           “‘debtor’ means a person or municipality con-  
2           cerning which a case under this title has been com-  
3           menced.

4           “‘disinterested person means a person that—

5               “(A) is not a creditor, an equity security  
6               holder, or an insider;

7               “(B) is not and was not an investment  
8               banker for any outstanding security of the debt-  
9               or;

10               “(C) has not been, within 3 years before  
11               the date of the filing of the petition, an invest-  
12               ment banker for a security of the debtor, or an  
13               attorney for such an investment banker in con-  
14               nection with the offer, sale, or issuance of a se-  
15               curity of the debtor;

16               “(D) is not and was not, within 2 years be-  
17               fore the date of the filing of the petition, a di-  
18               rector, officer, or employee of the debtor or of  
19               an investment banker specified in subparagraph  
20               (B) or (C); and

21               “(E) does not have an interest materially  
22               adverse to the interest of the estate or of any  
23               class of creditors or equity security holders, by  
24               reason of any direct or indirect relationship to,  
25               connection with, or interest in, the debtor or an

1 investment banker specified in subparagraph  
2 (B) or (C), or for any other reason.

3 “‘entity’ includes a person, estate, trust, gov-  
4 ernmental unit, and United States trustee.

5 “‘equity security’ means—

6 “(A) a share in a corporation, whether or  
7 not transferable or denominated ‘stock’, or  
8 similar security;

9 “(B) an interest of a limited partner in a  
10 limited partnership; or

11 “(C) a warrant or right, other than a right  
12 to convert, to purchase, sell, or subscribe to a  
13 share, security, or interest of a kind specified in  
14 subparagraph (A) or (B).

15 “‘equity security holder’ means a holder of an  
16 equity security of the debtor.

17 “‘family farmer’ means—

18 “(A) an individual or individual and spouse  
19 engaged in a farming operation whose aggre-  
20 gate debts do not exceed \$1,500,000 and not  
21 less than 80 percent of whose aggregate  
22 noncontingent, liquidated debts (excluding a  
23 debt for the principal residence of such individ-  
24 ual or such individual and spouse unless such  
25 debt arises out of a farming operation), on the

1       date the case is filed; arise out of a farming op-  
2       eration owned or operated by such individual or  
3       such individual and spouse; and such individual  
4       or such individual and spouse receive from such  
5       farming operation more than 50 percent of such  
6       individual's or such individual and spouse's  
7       gross income for the taxable year preceding the  
8       taxable year in which the case concerning such  
9       individual or such individual and spouse was  
10      filed; or

11           “(B) a corporation or partnership in which  
12      more than 50 percent of the outstanding stock  
13      or equity is held by one family, or by one family  
14      and the relatives of the members of such family,  
15      and such family or such relatives conduct the  
16      farming operation—

17           “(i) more than 80 percent of the value  
18      of its assets consists of assets related to  
19      the farming operation;

20           “(ii) its aggregate debts do not exceed  
21      \$1,500,000 and not less than 80 percent of  
22      its aggregate noncontingent, liquidated  
23      debts (excluding a debt for one dwelling  
24      which is owned by such corporation or  
25      partnership and which a shareholder or



1 partner maintains as a principal residence,  
2 unless such debt arises out of a farming  
3 operation), on the date the case is filed,  
4 arise out of the farming operation owned  
5 or operated by such corporation or such  
6 partnership; and

7 “(iii) if such corporation issues stock,  
8 such stock is not publicly traded.

9 “‘family farmer with regular annual income’  
10 means a family farmer whose annual income is suffi-  
11 ciently stable and regular to enable such family  
12 farmer to make payments under a plan under chap-  
13 ter 12.

14 “‘farmer’ means (except when such term ap-  
15 pears in the term ‘family farmer’) a person that re-  
16 ceived more than 80 percent of such person’s gross  
17 income during the taxable year of such person imme-  
18 diately preceding the taxable year of such person  
19 during which the case under this title concerning  
20 such person was commenced from a farming oper-  
21 ation owned or operated by such person.

22 “‘farming operation’ includes farming, tillage  
23 of the soil, dairy farming, ranching, production or  
24 raising of crops, poultry, or livestock, and production

1 of poultry or livestock products in an unmanufactured state.

2  
3 “‘Federal depository institutions regulatory agency’ means—

4  
5 “(A) with respect to an insured depository  
6 institution (as defined in section 3(c)(2) of the  
7 Federal Deposit Insurance Act (12 U.S.C.  
8 1813(c)(2)) for which no conservator or receiver  
9 has been appointed, the appropriate Federal  
10 banking agency (as defined in section 3(q) of  
11 that Act);

12 “(B) with respect to an insured credit  
13 union (including an insured credit union for  
14 which the National Credit Union Administra-  
15 tion has been appointed conservator or liquidat-  
16 ing agent), the National Credit Union Adminis-  
17 tration;

18 “(C) with respect to any insured depository  
19 institution for which the Resolution Trust Cor-  
20 poration has been appointed conservator or re-  
21 ceiver, the Resolution Trust Corporation; and

22 “(D) with respect to any insured depository  
23 institution for which the Federal Deposit  
24 Insurance Corporation has been appointed con-

1 servator or receiver, the Federal Deposit Insur-  
2 ance Corporation.

3 “‘financial institution’ means a person that is  
4 a commercial or savings bank, industrial savings  
5 bank, savings and loan association, or trust company  
6 and, when any such person is acting as agent or cus-  
7 todian for a customer in connection with a securities  
8 contract (as defined in section 741(a)), the cus-  
9 tomer.

10 “‘foreign proceeding’ means a proceeding,  
11 whether judicial or administrative and whether or  
12 not under bankruptcy law, in a foreign country in  
13 which the debtor’s domicile, residence, principal  
14 place of business, or principal assets were located at  
15 the commencement of such proceeding, for the pur-  
16 pose of liquidating an estate, adjusting debts by  
17 composition, extension, or discharge, or effecting a  
18 reorganization.

19 “‘foreign representative’ means a duly selected  
20 trustee, administrator, or other representative of an  
21 estate in a foreign proceeding.

22 “‘forward contract’ means a contract (other  
23 than a commodity contract) for the purchase, sale,  
24 or transfer of a commodity, as defined in section  
25 761, or any similar good, article, service, right, or

1 interest which is presently or in the future becomes  
2 the subject of dealing in the forward contract trade,  
3 or product or byproduct thereof, with a maturity  
4 date more than 2 days after the date the contract  
5 is entered into, including, but not limited to, a re-  
6 purchase transaction, reverse repurchase trans-  
7 action, consignment, lease, swap, hedge transaction,  
8 deposit, loan, option, allocated transaction,  
9 unallocated transaction, or any combination thereof  
10 or option thereon.

11 “‘forward contract merchant’ means a person  
12 whose business consists in whole or in part of enter-  
13 ing into forward contracts as or with merchants in  
14 a commodity (as defined in section 761) or any simi-  
15 lar good, article, service, right, or interest which is  
16 presently or in the future becomes the subject of  
17 dealing in the forward contract trade.

18 “‘governmental unit’ means—

19 “(A) the United States, a State, Common-  
20 wealth, or Territory, the District of Columbia,  
21 a municipality, and a foreign state;

22 “(B) a department, agency, or instrumen-  
23 tality of the United States (but not a United  
24 States trustee while serving as a trustee in a  
25 case under this title), a State, Commonwealth,

1           or Territory, the District of Columbia, a mu-  
2           nicipality, a foreign state; or

3           ~~“(C) any other foreign or domestic govern-~~  
4           ~~ment.~~

5           ~~“‘indenture’ means a mortgage, deed of trust,~~  
6           ~~or indenture, under which there is outstanding a se-~~  
7           ~~curity, other than a voting-trust certificate, con-~~  
8           ~~stituting a claim against the debtor, a claim secured~~  
9           ~~by a lien on any of the debtor’s property, or an eq-~~  
10          ~~uity security of the debtor.~~

11          ~~“‘indenture trustee’ means a trustee under an~~  
12          ~~indenture.~~

13          ~~“‘individual with regular income’ means an in-~~  
14          ~~dividual whose income is sufficiently stable and reg-~~  
15          ~~ular to enable such individual to make payments~~  
16          ~~under a plan under chapter 13, other than a stock-~~  
17          ~~broker or a commodity broker.~~

18          ~~“‘insider’ includes—~~

19                 ~~“(A) if the debtor is an individual—~~

20                         ~~“(i) a relative of the debtor or of a~~  
21                         ~~general partner of the debtor;~~

22                         ~~“(ii) a partnership in which the debtor~~  
23                         ~~is a general partner;~~

24                         ~~“(iii) a general partner of the debtor;~~

25                         ~~or~~

1           “(iv) a corporation of which the debt-  
2           or is a director, officer, or person in con-  
3           trol;

4           “(B) if the debtor is a corporation—

5                 “(i) a director of the debtor;

6                 “(ii) an officer of the debtor;

7                 “(iii) a person in control of the debt-  
8           or;

9                 “(iv) a partnership in which the debt-  
10          or is a general partner;

11                “(v) a general partner of the debtor;  
12          or

13                “(vi) a relative of a general partner,  
14          director, officer, or person in control of the  
15          debtor;

16           “(C) if the debtor is a partnership—

17                 “(i) a general partner in the debtor;

18                 “(ii) a relative of a general partner in,  
19          general partner of, or person in control of  
20          the debtor;

21                 “(iii) a partnership in which the debt-  
22          or is a general partner;

23                 “(iv) a general partner of the debtor;  
24          or

25                 “(v) a person in control of the debtor;

1           ~~“(D) if the debtor is a municipality, an~~  
2           ~~electd official of the debtor or relative of an~~  
3           ~~electd official of the debtor;~~

4           ~~“(E) an affiliate, or insider of an affiliate~~  
5           ~~as if such affiliate were the debtor; and~~

6           ~~“(F) a managing agent of the debtor.~~

7           ~~“‘insolvent’ means—~~

8           ~~“(A) with reference to an entity other than~~  
9           ~~a partnership and a municipality, being in a fi-~~  
10          ~~nancial condition such that the sum of the enti-~~  
11          ~~ty’s debts is greater than all of the entity’s~~  
12          ~~property, at a fair valuation, exclusive of—~~

13           ~~“(i) property transferred, concealed,~~  
14           ~~or removed with intent to hinder, delay, or~~  
15           ~~defraud such entity’s creditors; and~~

16           ~~“(ii) property that may be exempted~~  
17           ~~from property of the estate under section~~  
18           ~~522;~~

19           ~~“(B) with reference to a partnership, being~~  
20           ~~in a financial condition such that the sum of~~  
21           ~~the partnership’s debts is greater than the ag-~~  
22           ~~gregate of, at a fair valuation—~~

23           ~~“(i) all of the partnership’s property,~~  
24           ~~exclusive of property of the kind specified~~  
25           ~~in subparagraph (A)(i); and~~

1           “(B) the sum of the excess of the  
 2           value of each general partner’s  
 3           nonpartnership property, exclusive of prop-  
 4           erty of the kind specified in subparagraph  
 5           (A), over such partner’s nonpartnership  
 6           debts; and

7           “(C) with reference to a municipality,  
 8           being in a financial condition such that the mu-  
 9           nicipality is—

10           “(i) generally not paying its debts as  
 11           they become due unless such debts are the  
 12           subject of a bona fide dispute; and

13           “(ii) unable to pay its debts as they  
 14           become due.

15           “‘institution-affiliated party’—

16           “(A) with respect to an insured depository  
 17           institution (as defined in section 3(c)(2) of the  
 18           Federal Deposit Insurance Act) (12 U.S.C.  
 19           1813(c)(2)), has the meaning given it in section  
 20           3(u) of the Federal Deposit Insurance Act (12  
 21           U.S.C. 1813(u)); and

22           “(2) with respect to an insured credit  
 23           union, has the meaning given it in section  
 24           206(r) of the Federal Credit Union Act (12  
 25           U.S.C. 1786(r)).



1           “‘insured credit union’ has the meaning given  
2           it in section 101(7) of the Federal Credit Union Act  
3           ~~(12 U.S.C. 1752(7))~~.

4           “‘insured depository institution’—

5                 “(A) has the meaning given it in section  
6                 ~~3(c)(2)~~ of the Federal Deposit Insurance Act  
7                 ~~(12 U.S.C. 1813(c)(2))~~; and

8                 “(B) includes an insured credit union (ex-  
9                 cept as provided in the definition of ‘Federal  
10                depository institutions regulatory agency’ and  
11                in subparagraph (B) of the definition of ‘insti-  
12                tution-affiliated party’).

13           “‘intellectual property’ means—

14                 “(A) a trade secret;

15                 “(B) an invention, process, design, or plant  
16                protected under title 35;

17                 “(C) a patent application;

18                 “(D) a plant variety;

19                 “(E) a work of authorship protected under  
20                title 17; and

21                 “(F) a mask work protected under chapter  
22                9 of title 17, to the extent protected by applica-  
23                ble nonbankruptcy law.

1           “‘judicial lien’ means a lien obtained by judg-  
2           ment, levy, sequestration, or other legal or equitable  
3           process or proceeding.

4           “‘lien’ means a charge against or interest in  
5           property to secure payment of a debt or performance  
6           of an obligation.

7           “‘margin payment’, as used in sections  
8           362(b)(6), 546 (e) and (f), 548 (d)(2) (B) and (C),  
9           556, 741(5), 761(15), 764(b), 766(a), and any other  
10          provision of this title in relation to forward con-  
11          tracts, means a payment or deposit of cash, a secu-  
12          rity, or other property that is commonly known in  
13          the forward contract trade as original margin, initial  
14          margin, maintenance margin, or variation margin,  
15          including market-to-market payments or variation  
16          payments.

17          “‘mask work’ has the meaning given it in sec-  
18          tion 901(a)(2) of title 17.

19          “‘municipality’ means a political subdivision or  
20          public agency or instrumentality of a State.

21          “‘person’ includes an individual, partnership,  
22          and corporation, but does not include a govern-  
23          mental unit, except that a governmental unit that  
24          acquires an asset from a person as a result of oper-  
25          ation of a loan guarantee agreement, or as receiver

1 or liquidating agent of a person, shall be considered  
2 to be a person for purposes of section 1102.

3 “‘petition’ means a petition filed under section  
4 301, 302, 303, or 304 commencing a case under this  
5 title.

6 “‘purchaser’ means a transferee of a voluntary  
7 transfer, and includes an immediate or mediate  
8 transferee of such a transferee.

9 “‘railroad’ means a common carrier by railroad  
10 engaged in the transportation of individuals or prop-  
11 erty or owner of trackage facilities leased by such a  
12 common carrier.

13 “‘relative’ means an individual related by affin-  
14 ity or consanguinity within the third degree as deter-  
15 mined by the common law and an individual in a  
16 step or adoptive relationship within such third de-  
17 gree.

18 “‘repo participant’ means an entity that, on  
19 any day during the period beginning 90 days before  
20 the date of the filing of a petition, has an outstand-  
21 ing repurchase agreement with the debtor.

22 “‘repurchase agreement’ and ‘reverse repur-  
23 chase agreement’ mean an agreement, including re-  
24 lated terms, which provides for the transfer of cer-  
25 tificates of deposit, eligible bankers’ acceptances, or

1 securities that are direct obligations of, or that are  
 2 fully guaranteed as to principal and interest by, the  
 3 United States or any agency of the United States  
 4 against the transfer of funds by the transferee of  
 5 such certificates of deposit, eligible bankers' accept-  
 6 ances, or securities with a simultaneous agreement  
 7 by such transferee to transfer to the transferor  
 8 thereof certificates of deposit, eligible bankers' ac-  
 9 ceptances, or securities as described above, at a date  
 10 certain not later than 1 year after such transfers or  
 11 on demand, against the transfer of funds.

12 “‘security’—

13 “(A) includes—

14 “(i) a note;

15 “(ii) stock;

16 “(iii) treasury stock;

17 “(iv) a bond;

18 “(v) a debenture;

19 “(vi) a collateral trust certificate;

20 “(vii) a preorganization certificate or  
 21 subscription;

22 “(viii) a transferable share;

23 “(ix) a voting trust certificate;

24 “(x) a certificate of deposit;

1           “(xi) a certificate of deposit for secu-  
2           rity;

3           “(xii) an investment contract or cer-  
4           tificate of interest or participation in a  
5           profit-sharing agreement or in an oil, gas,  
6           or mineral royalty or lease, if such contract  
7           or interest is required to be the subject of  
8           a registration statement filed with the Se-  
9           curities and Exchange Commission under  
10          the provisions of the Securities Act of  
11          1933 (15 U.S.C. 77a et seq.), or is exempt  
12          under section 3(b) of that Act (15 U.S.C.  
13          77c(b)) from the requirement to file such  
14          a statement;

15          “(xiii) an interest of a limited partner  
16          in a limited partnership;

17          “(xiv) another claim or interest com-  
18          monly known as a ‘security’; and

19          “(xv) a certificate of interest or par-  
20          ticipation in, temporary or interim certifi-  
21          cate for, receipt for, or warrant or right to  
22          subscribe to or purchase or sell, a security;  
23          but

24          “(B) does not include—

1           “(i) currency or a check, draft, bill of  
2           exchange, or bank letter of credit;

3           “(ii) a leverage transaction (as de-  
4           fined in section 761);

5           “(iii) a commodity futures contract or  
6           forward contract;

7           “(iv) an option, warrant, or right to  
8           subscribe to or purchase or sell a commod-  
9           ity futures contract;

10          “(v) an option to purchase or sell a  
11          commodity;

12          “(vi) a contract or certificate of a  
13          kind specified in subparagraph (A)(xii)  
14          that is not required to be the subject of a  
15          registration statement filed with the Secu-  
16          rities and Exchange Commission and is not  
17          exempt under section 3(b) of the Securities  
18          Act of 1933 (15 U.S.C. 77c(b)) from the  
19          requirement to file such a statement; or

20          “(vii) debt or an evidence of indebted-  
21          ness for goods sold and delivered or serv-  
22          ices rendered.

23          “‘security agreement’ means an agreement that  
24          creates or provides for a security interest.

1           “‘securities clearing agency’ means a person  
2           that is registered as a clearing agency under section  
3           17A of the Securities Exchange Act of 1934 (15  
4           U.S.C. 78q-1) or whose business is confined to the  
5           performance of functions of a clearing agency with  
6           respect to exempted securities (as defined in section  
7           3(a)(12) of that Act (15 U.S.C. 78c(12))) for the  
8           purposes of that section 17A.

9           “‘security interest’ means a lien created by an  
10          agreement.

11          “‘settlement payment’ means, for purposes of  
12          the forward contract provisions of this title, a pre-  
13          liminary settlement payment, partial settlement pay-  
14          ment, interim settlement payment, settlement pay-  
15          ment on account, final settlement payment, net set-  
16          tlement payment, or any other similar payment com-  
17          monly used in the forward contract trade.

18          “‘State’ includes the District of Columbia and  
19          Puerto Rico, except for the purpose of defining who  
20          may be a debtor under chapter 9.

21          “‘statutory lien’ means a lien arising solely by  
22          force of a statute on specified circumstances or con-  
23          ditions, or lien of distress for rent, whether or not  
24          statutory, but does not include a security interest or  
25          judicial lien, whether or not such interest or lien is

1 provided by or is dependent on a statute and wheth-  
 2 er or not such interest or lien is made fully effective  
 3 by statute.

4 “‘stockbroker’ means a person—

5 “(A) with respect to which there is a cus-  
 6 tomer (as defined in section 741); and

7 “(B) that is engaged in the business of  
 8 effecting transactions in securities—

9 “(i) for the account of others; or

10 “(ii) with members of the general  
 11 public, from or for such person’s own ac-  
 12 count.

13 “‘swap agreement’ means—

14 “(A) an agreement (including terms and  
 15 conditions incorporated by reference therein)  
 16 which is a rate swap agreement, basis swap,  
 17 forward rate agreement, commodity swap, inter-  
 18 est rate option, forward foreign exchange agree-  
 19 ment, rate cap agreement, rate floor agreement,  
 20 rate collar agreement, currency swap agree-  
 21 ment, cross-currency rate swap agreement, cur-  
 22 rency option, or any other similar agreement  
 23 (including any option to enter into any of the  
 24 foregoing);

25 “(2) any combination of the foregoing; or



1           “(3) a master agreement for any of the  
2           foregoing together with all supplements.

3           “‘swap participant’ means an entity that, at  
4           any time before the filing of a petition, has an out-  
5           standing swap agreement with the debtor.

6           “‘timeshare interest’ means an interest pur-  
7           chased in a timeshare plan which grants the pur-  
8           chaser the right to use and occupy accommodations,  
9           facilities, or recreational sites, whether improved or  
10          unimproved, pursuant to a timeshare plan.

11          “‘timeshare plan’ means an interest in any ar-  
12          rangement, plan, scheme, or similar device (but not  
13          including an exchange program), whether by mem-  
14          bership, agreement, tenancy in common, sale, lease,  
15          deed, rental agreement, license, right to use agree-  
16          ment, or by any other means, whereby a purchaser  
17          of the interest, in exchange for consideration, re-  
18          ceives a right to use accommodations, facilities, or  
19          recreational sites, whether improved or unimproved,  
20          for a specific period of time less than a full year  
21          during any given year, but not necessarily for con-  
22          secutive years, and which extends for a period of  
23          more than 3 years.

24          “‘transfer’ means a mode, direct or indirect,  
25          absolute or conditional, voluntary or involuntary, of

1 disposing of or parting with property or with an in-  
 2 terest in property, including retention of title as a  
 3 security interest and foreclosure of the debtor's eq-  
 4 uity of redemption.

5 “‘United States’, when used in a geographical  
 6 sense, includes all locations where the judicial juris-  
 7 diction of the United States extends, including terri-  
 8 tories and possessions of the United States.

9 ~~(b) REFERENCES TO DEFINITIONS IN TITLE XI.—~~

10 ~~(1) SECTION 362.—Section 362(b) of title 11,~~  
 11 ~~United States Code, is amended—~~

12 ~~(A) in paragraph (6)—~~

13 ~~(i) by striking “section 761(4)” and~~  
 14 ~~inserting “section 761”;~~

15 ~~(ii) by striking “section 741(7)” and~~  
 16 ~~inserting “section 741”;~~

17 ~~(iii) by striking “section 101(34),~~  
 18 ~~741(5), or 761(15)” and inserting “section~~  
 19 ~~101, 741, or 761”;~~ and

20 ~~(iv) by striking “section 101(35) or~~  
 21 ~~741(8)” and inserting “section 101 or~~  
 22 ~~741”;~~ and

23 ~~(B) in paragraph (7)—~~

1 (i) by striking “section 741(5) or  
 2 761(15)” and inserting “section 741 or  
 3 761”; and

4 (ii) by striking “section 741(8)” and  
 5 inserting “section 741”.

6 ~~(2)~~ SECTION 507.—Section 507(a)(5) of title  
 7 11, United States Code, is amended—

8 (A) by striking “section 557(b)(1)” and in-  
 9 serting “section 557(b)”; and

10 (B) by striking “section 557(b)(2)” and in-  
 11 serting “section 557(b)”.

12 ~~(3)~~ Section 546 of title 11, United States Code,  
 13 is amended—

14 (A) in subsection (e)—

15 (i) by striking “section 101(34),  
 16 741(5), or 761(15)” and inserting “section  
 17 101, 741, or 761”; and

18 (ii) by striking “section 101(35) or  
 19 741(8)” and inserting “section 101 or  
 20 741”; and

21 (B) in subsection (f)—

22 (i) by striking “section 741(5) or  
 23 761(15)” and inserting “section 741 or  
 24 761”; and

1                   (ii) by striking “section 741(8)” and  
 2                   inserting “section 741”.

3           (4) SECTION 548.—Section 548(d)(2) of title  
 4   11, United States Code, is amended—

5                   (A) in subparagraph (B)—

6                   (i) by striking “section 101(34),  
 7                   741(5) or 761(15)” and inserting “section  
 8                   101, 741, or 761”; and

9                   (ii) by striking “section 101(35) or  
 10                  741(8)” and inserting “section 101 or  
 11                  741”; and

12                  (B) in subparagraph (C)—

13                  (i) by striking “section 741(5) or  
 14                  761(15)” and inserting “section 741 or  
 15                  761”; and

16                  (ii) by striking “section 741(8)” and  
 17                  inserting “section 741”.

18           (5) SECTION 555.—Section 555 of title 11,  
 19   United States Code, is amended by striking “section  
 20   741(7)” and inserting “section 741”.

21           (6) SECTION 556.—Section 556 of title 11,  
 22   United States Code, is amended by striking “section  
 23   761(4)” and inserting “section 761”.

24           (c) REFERENCES TO DEFINITIONS IN OTHER  
 25   LAWS.—

1           ~~(1) FEDERAL CREDIT UNION ACT.—Section~~  
 2           ~~207(c)(8)(D) of the Federal Credit Union Act (12~~  
 3           ~~U.S.C. 1787(c)(8)(D)) is amended—~~

4                   ~~(A) in clause (ii)(I) by striking “section~~  
 5                   ~~741(7)” and inserting “section 741”;~~

6                   ~~(B) in clause (iii) by striking “section~~  
 7                   ~~101(24)” and inserting “section 101”;~~

8                   ~~(C) in clause (iv)(I) by striking “section~~  
 9                   ~~101(41)” and inserting “section 101”; and~~

10                   ~~(D) in clause (v) by striking “section~~  
 11                   ~~101(50)” and inserting “section 101”.~~

12           ~~(2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-~~  
 13           ~~tion 11(e)(8)(D) of the Federal Deposit Insurance~~  
 14           ~~Act (12 U.S.C. 1821(e)(8)(D)) is amended—~~

15                   ~~(A) in clause (ii)(I) by striking “section~~  
 16                   ~~741(7)” and inserting “section 741”;~~

17                   ~~(B) in clause (iii) by striking “section~~  
 18                   ~~761(4)” and inserting “section 761”;~~

19                   ~~(C) in clause (iv) by striking “section~~  
 20                   ~~101(24)” and inserting “section 101”;~~

21                   ~~(D) in clause (v)(I) by striking “section~~  
 22                   ~~101(41)” and inserting “section 101”; and~~

23                   ~~(E) in clause (viii) by striking “section~~  
 24                   ~~101(50)” and inserting “section 101”.~~

1       (d) OTHER TECHNICAL AMENDMENTS.—Title 11 of  
2 the United States Code is amended—

3           (1) in section 322(a) by striking “1302, or  
4 1202” and inserting “1202, or 1302”,

5           (2) in section 346—

6               (A) in subsection (a) by striking “Internal  
7 Revenue Code of 1954 (26 U.S.C. 1 et seq.)”  
8 and inserting “Internal Revenue Code of  
9 1986”; and

10            (B) in subsection (g)(1)(C) by striking  
11 “Internal Revenue Code of 1954 (26 U.S.C.  
12 371)” and inserting “Internal Revenue Code of  
13 1986”;

14           (3) in section 348—

15               (A) in subsection (b) by striking “728(a),  
16 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c),  
17 1141(d)(4), 1146(a), 1146(b), 1301(a),  
18 1305(a), 1201(a), 1221, and 1228(a)” and in-  
19 serting “728 (a) and (b), 1021, 1028, 1102(a),  
20 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146  
21 (a) and (b), 1201(a), 1221, 1228(a), 1301(a),  
22 and 1305(a)”;

23               (B) in subsections (b), (c), (d), and (e) by  
24 striking “1307, or 1208” each place it appears  
25 and inserting “1208, or 1307”;

1           (4) in section 349(a) by striking “109(f)” and  
2           inserting “109(g)”;

3           (5) in section 362(b)—

4                 (A) by striking “or” at the end of para-  
5                 graph (10);

6                 (B) in paragraph (12) by striking “the  
7                 Ship Mortgage Act, 1920 (46 App. U.S.C. 911  
8                 et seq.)” and inserting “section 31325 of title  
9                 46, United States Code”;

10                (C) in paragraph (13)—

11                         (i) by striking “the Ship Mortgage  
12                         Act, 1920 (46 App. U.S.C. 911 et seq.)”  
13                         and inserting “section 31325 of title 46,  
14                         United States Code”; and

15                         (ii) by striking “or” at the end;

16                 (D) in paragraph (14), as added by section  
17                 102 of Public Law 101–311 (104 Stat. 267) at  
18                 the end of the subsection, by removing it from  
19                 the end of the subsection, inserting it after  
20                 paragraph (13), and striking the period at the  
21                 end and inserting a semicolon; and

22                 (E) by redesignating paragraphs (14),  
23                 (15), and (16), as added by section 3007(a) of  
24                 the Student Loan Default Prevention Initiative  
25                 Act of 1990 (104 Stat. 1388–28), as para-

1       graphs (15), (16), and (17), striking “or” at  
 2       the end of paragraph (16), as redesignated by  
 3       this subparagraph, and adding “or” at the end  
 4       of paragraph (17), as redesignated by this sub-  
 5       paragraph;

6       (6) in section 363(c)(1) by striking “1304,  
 7       1203, or 1204” and inserting “1203, 1204, or  
 8       1304”;

9       (7) in section 364(a) by striking “1304, 1203,  
 10      or 1204” and inserting “1203, 1204, or 1304”;

11      (8) in section 365—

12           (A) in subsection (g)(2) (A) and (B) by  
 13       striking “1307, or 1208” each place it appears  
 14       and inserting “1208, or 1307”;

15           (B) in subsection (n)(1)(B) by striking “to  
 16       to” and inserting “to”; and

17           (C) in subsection (o) by striking “the Fed-  
 18       eral” the first place it appears and all that fol-  
 19       lows through “successors,” and inserting “a  
 20       Federal depository institutions regulatory agen-  
 21       cy (or predecessor to such an agency)”;

22      (9) in section 507—

23           (A) in subsection (a)(8) by striking “the  
 24       Federal” the first place it appears and all that  
 25       follows through “successors,” and inserting “a



1 Federal depository institutions regulatory agen-  
 2 cy (or predecessor to such an agency)”; and

3 (B) in subsection (d) by striking “(a)(3),  
 4 (a)(4), (a)(5), or (a)(6)” and inserting “(a) (3),  
 5 (4), (6), or (7)”;

6 (10) in section 522(d)(10)(E)(iii) by striking  
 7 “401(a), 401(b), 403(a), 403(b), 408, or 409 Inter-  
 8 nal Revenue Code of 1954 (26 U.S.C. 401(a),  
 9 401(b), 403(a), 403(b), 408, or 409)” and inserting  
 10 “section 401 (a) or (b), 403 (a) or (b), 408, or 409  
 11 of the Internal Revenue Code of 1986”;

12 (11) in section 523(a) —

13 (A) in subsection (a)—

14 (i) by striking “1141,, 1228(a),  
 15 1228(b),” and inserting “1141, 1228 (a)  
 16 or (b),”; and

17 (ii) in paragraph (12) by striking the  
 18 semicolon at the end and inserting a pe-  
 19 riod; and

20 (B) in subsection (e) by striking “deposi-  
 21 tory institution or insured credit union” and in-  
 22 serting “insured depository institution”;

23 (12) in section 524—

1           (A) in subsection (a)(3) by striking “or  
2           1328(c)(1)” and inserting “, 1228(a)(1), or  
3           1328(a)(1)”;

4           (B) in subsection (c)(4) by striking  
5           “recission” and inserting “rescission”; and

6           (C) in subsection (d)(1)(B)(ii) by adding  
7           “and” at the end;

8           (12) in section 542(e) by striking “to to” and  
9           inserting “to”;

10          (13) in section 543(d)(1) by striking “of eq-  
11          uity” and inserting “if equity”;

12          (14) in section 546(a)(1) by striking “1302, or  
13          1202” and inserting “1202, or 1302”;

14          (15) in section 549(b) by inserting “the trustee  
15          may not avoid under subsection (a) of this section”  
16          after “involuntary case,”;

17          (16) in section 553—

18               (A) in subsection (a)(1) by striking “other  
19               than under section 502(b)(3) of this title”; and

20               (B) in subsection (b)(1) by striking  
21               “362(b)(14),,” and inserting “362(b)(14),”;

22          (17) in section 706(a) by striking “1307, or  
23          1208” and inserting “1208, or 1307”;

1           ~~(18)~~ in section 724(d) by striking “Internal  
2       Revenue Code of 1954 (26 U.S.C. 6323)” and in-  
3       serting “Internal Revenue Code of 1986”;

4           ~~(19)~~ in section 726(b)—

5               (A) by inserting a comma after “section  
6       1112”; and

7               (B) by inserting “1009,” after “chapter  
8       under section”;

9           ~~(20)~~ in section 743 by striking “342(a)” and  
10       inserting “342”;

11           ~~(21)~~ in section 745(c) by striking “Internal  
12       Revenue Code of 1954 (26 U.S.C. 1 et seq.)” and  
13       inserting “Internal Revenue Code of 1986”;

14           ~~(22)~~ in section 1104(c) inserting a comma after  
15       “interest”;

16           ~~(23)~~ in section 1123(a)(1) inserting a comma  
17       after “title” the last place it appears;

18           ~~(24)~~ in section 1129(a)—

19               (A) in paragraph (4) by striking the semi-  
20       colon at the end and inserting a period; and

21               (B) in paragraph (12) inserting “of title  
22       28” after “section 1930”;

23           ~~(25)~~ in section 1145(a) by striking “does” and  
24       inserting “do”;

25           ~~(26)~~ in section 1226(b)(2)—

1           (A) by striking “1202(d) of this title” and  
2           inserting “1202(c)”; and

3           (B) by striking “1202(e) of this title” and  
4           inserting “1202(d)”;

5           (27) in section 1302(b)(3) by striking “and” at  
6           the end;

7           (28) in section 1328(a)—

8           (A) in paragraph (2) by striking “(5) or  
9           (8)” and inserting “(5), (8), or (9)”; and

10          (B) by striking paragraph (3), as added by  
11          section 3103 of Public Law 101–64 (104 Stat.  
12          4916)”; and

13          (29) in the table of chapters by striking the  
14          item relating to chapter 15.

15   **SEC. 502. TITLE 28, UNITED STATES CODE.**

16          Section 586(a)(3) of title 28, United States Code, is  
17          amended in the matter preceding subparagraph (A) by in-  
18          serting “12,” after “11,”.

19   **TITLE VI—SEVERABILITY; EF-**  
20   **FECTIVE DATE; APPLICATION**  
21   **OF AMENDMENTS**

22   **SEC. 601. SEVERABILITY.**

23          If any provision of this Act or amendment made by  
24          this Act or the application of such provision or amendment  
25          to any person or circumstance is held to be unconstitu-

1 tional, the remaining provisions of and amendments made  
 2 by this Act and the application of such other provisions  
 3 and amendments to any person or circumstance shall not  
 4 be affected thereby.

5 **SEC. 602. EFFECTIVE DATE; APPLICATION OF AMEND-**  
 6 **MENTS.**

7 (a) **EFFECTIVE DATE.**—Except as provided in sub-  
 8 section (b), this Act and the amendments made by this  
 9 Act shall take effect on the date of enactment of this Act.

10 (b) **APPLICATION OF AMENDMENTS.**—

11 (1) **IN GENERAL.**—Except as provided in sec-  
 12 tion 115(c) and in paragraph (2) of this subsection,  
 13 the amendments made by this Act shall not apply  
 14 with respect to cases commenced under title 11,  
 15 United States Code, before the date of enactment of  
 16 this Act.

17 (2) **SECTION 1110 OF TITLE 11.**—Section 1110  
 18 of title 11, United States Code, as amended by sec-  
 19 tion 203, shall apply with respect to any lease (as  
 20 defined in section 1110(c)), entered into in connec-  
 21 tion with a settlement of any litigation in any case  
 22 pending under title 11, United States Code, on the  
 23 date of enactment of this Act.

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE IMPROVEMENT.*—This Act may be  
 3 cited as the “Bankruptcy Amendments Act of 1993”.

4 (b) *TABLE OF CONTENTS.*—The table of contents is as  
 5 follows:

*Sec. 1. Short title; table of contents.*

*TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION*

- Sec. 101. Expedited hearing on automatic stay.*
- Sec. 102. Expedited filing of plans under chapter 11.*
- Sec. 103. Expedited filing of plans under chapter 12.*
- Sec. 104. Expedited procedure for reaffirmation of debts.*
- Sec. 105. Powers of bankruptcy courts.*
- Sec. 106. Participation by bankruptcy administrator at meetings of creditors and equity security holders.*
- Sec. 107. Definition relating to eligibility to serve on chapter 11 committees.*
- Sec. 108. Increased incentive compensation for trustees.*
- Sec. 109. Dollar adjustments.*
- Sec. 110. Premerger notification.*
- Sec. 111. Allowance of creditor committee expenses.*
- Sec. 112. Judicial conference report.*
- Sec. 113. Service of process.*
- Sec. 114. Meetings of creditors and equity security holders.*
- Sec. 115. Tax assessment.*

*TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY*

- Sec. 201. Small business chapter.*
- Sec. 202. Single asset real estate.*
- Sec. 203. Aircraft equipment, vessels, and rolling stock equipment.*
- Sec. 204. Unexpired leases of personal property in chapter 11 cases.*
- Sec. 205. Protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal.*
- Sec. 206. Protection of security interest in post-petition rents.*
- Sec. 207. Anti-alienation.*
- Sec. 208. Exemption.*
- Sec. 209. Indenture trustee compensation.*
- Sec. 210. Payment of taxes with borrowed funds.*
- Sec. 211. Return of goods.*
- Sec. 212. Exception to discharge.*
- Sec. 213. Proceeds of money order agreements.*
- Sec. 214. Limitation on liability of noninsider transferee for avoided transfer.*
- Sec. 215. Perfection of purchase-money security interest.*
- Sec. 216. Airport gate leases.*
- Sec. 217. Trustee duties.*
- Sec. 218. Payments.*
- Sec. 219. Continued perfection.*
- Sec. 220. Payment of insurance benefits to retired employees.*
- Sec. 221. Notices to creditors.*

## TITLE III—CONSUMER BANKRUPTCY ISSUES

- Sec. 301. Period for curing default relating to principal residence.*
- Sec. 302. Nondischargeability of fine under chapter 13.*
- Sec. 303. Protection of child support and alimony.*
- Sec. 304. Bankruptcy petition preparers.*
- Sec. 305. Conversion or dismissal.*
- Sec. 306. Contents of plan.*
- Sec. 307. Stay of action against codebtor.*
- Sec. 308. Exemption for household goods.*
- Sec. 309. Professional fees.*
- Sec. 310. Interest on interest.*

## TITLE IV—BANKRUPTCY REVIEW COMMISSION

- Sec. 401. Short title.*
- Sec. 402. Establishment.*
- Sec. 403. Duties of the commission.*
- Sec. 404. Membership.*
- Sec. 405. Compensation of the commission.*
- Sec. 406. Staff of commission; experts and consultants.*
- Sec. 407. Powers of the commission.*
- Sec. 408. Report.*
- Sec. 409. Termination.*
- Sec. 410. Authorization of appropriations.*

## TITLE V—TECHNICAL CORRECTIONS

- Sec. 501. Title 11, United States Code.*
- Sec. 502. Title 28, United States Code.*

## TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- Sec. 601. Severability.*
- Sec. 602. Effective date; application of amendments.*

1                   **TITLE I—IMPROVED**  
 2                   **BANKRUPTCY ADMINISTRATION**

3                   **SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.**

4                   *The last sentence of section 362(e) of title 11, United*  
 5                   *States Code, is amended—*

6                   (1) by striking “commenced” and inserting “con-  
 7                   cluded”; and

8                   (2) by inserting “, unless the 30-day period is  
 9                   extended with the consent of the parties in interest or

1       *for a specific time which the court finds is required*  
 2       *by compelling circumstances” before the period at the*  
 3       *end.*

4   **SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER**  
 5                               **11.**

6       *Section 1121(d) of title 11, United States Code, is*  
 7       *amended—*

8               *(1) by striking “On” and inserting “(1) Subject*  
 9       *to paragraph (2), on”; and*

10              *(2) by adding at the end the following new para-*  
 11       *graph:*

12       *“(2) Under paragraph (1)—*

13              *“(A) the 120-day period referred to in this sec-*  
 14       *tion may not be increased beyond the 1-year period*  
 15       *beginning on the date of the order for relief under this*  
 16       *chapter; and*

17              *“(B) the 180-day period referred to in this sec-*  
 18       *tion may not be increased beyond the 425-day period*  
 19       *beginning on the date of the order for relief under this*  
 20       *chapter,*

21       *unless the need for such an increase is attributable to cir-*  
 22       *cumstances for which the debtor should not justly be held*  
 23       *accountable.”.*



1 **SEC. 103. EXPEDITED FILING OF PLANS UNDER CHAPTER**

2 **12.**

3 *Section 1221 of title 11, United States Code, is amend-*  
 4 *ed by striking “an extension is substantially justified” and*  
 5 *inserting “the need for an extension is attributable to cir-*  
 6 *cumstances for which the debtor should not justly be held*  
 7 *accountable”.*

8 **SEC. 104. EXPEDITED PROCEDURE FOR REAFFIRMATION OF**  
 9 **DEBTS.**

10 *(a) REAFFIRMATION.—Section 524(c) of title 11, Unit-*  
 11 *ed States Code, is amended—*

12 *(1) in paragraph (2)—*

13 *(A) by inserting “(A)” after “(2)”;*

14 *(B) by adding “and” at the end; and*

15 *(C) by inserting after subparagraph (A), as*  
 16 *designated by subparagraph (A), the following*  
 17 *new subparagraph:*

18 *“(B) such agreement contains a clear and*  
 19 *conspicuous statement that advises the debtor*  
 20 *that the agreement is not required under this*  
 21 *title, under nonbankruptcy law, or under any*  
 22 *agreement that is not in accordance with the*  
 23 *provisions of this subsection;”;* and

24 *(2) in paragraph (3)—*

1           (A) in the matter preceding subparagraph  
 2           (A) by striking “such agreement” the last place  
 3           it appears;

4           (B) in subparagraph (A)—

5                 (i) by inserting “such agreement” after  
 6                 “(A)”; and

7                 (ii) by striking “and” at the end; and

8           (C) in subparagraph (B)—

9                 (i) by inserting “such agreement” after  
 10                 “(B)”; and

11                 (ii) by adding “and” at the end; and

12           (3) by adding at the end the following new sub-  
 13           paragraph:

14                 “(C) the attorney fully advised the debtor of  
 15                 the legal effect and consequences of—

16                         “(i) an agreement of the kind described  
 17                         in this subsection; and

18                         “(ii) any default under such an agree-  
 19                         ment;”.

20           (b) *EFFECT OF DISCHARGE.*—The third sentence of  
 21           section 524(d) of title 11, United States Code, is amended  
 22           in the matter preceding paragraph (1) by inserting “and  
 23           was not represented by an attorney during the course of  
 24           negotiating the agreement” after “this section”.

1 **SEC. 105. POWERS OF BANKRUPTCY COURTS.**

2 (a) *STATUS CONFERENCES.*—Section 105 of title 11,  
3 *United States Code*, is amended by adding at the end the  
4 *following new subsection:*

5 “(d) *The court, on its own motion or on the motion*  
6 *of any party in interest, may—*

7 “(1) *hold a status conference regarding any case*  
8 *or proceeding under this title after notice to the par-*  
9 *ties in interest; and*

10 “(2) *unless it would be inconsistent with another*  
11 *provision of this title or with applicable Bankruptcy*  
12 *Rules, issue an order at any such conference prescrib-*  
13 *ing such limitations and conditions as the court*  
14 *deems to be appropriate to ensure that the case is*  
15 *handled expeditiously and economically, including an*  
16 *order that—*

17 “(A) *sets the date by which the debtor must*  
18 *accept or reject an executory contract or*  
19 *unexpired lease; or*

20 “(B) *in a case under chapter 11—*

21 “(i) *sets a date by which the debtor, or*  
22 *the trustee if one has been appointed, shall*  
23 *file a disclosure statement and plan;*

24 “(ii) *sets a date by which the debtor, or*  
25 *the trustee if one has been appointed, shall*  
26 *solicit acceptances of a plan;*

1           “(iii) sets the date by which a party in  
2           interest other than a debtor may file a plan;

3           “(iv) fixes the notice to be provided re-  
4           garding the hearing on approval of the dis-  
5           closure statement;

6           “(v) provides that the hearing on ap-  
7           proval of the disclosure statement may be  
8           combined with the hearing on confirmation  
9           of the plan; and

10          “(vi) directs the use of standard-form  
11          disclosure statements, plans, or other forms  
12          that have been adopted by the court.”.

13          (b) *ESTABLISHMENT, OPERATION, AND TERMINATION*  
14          *OF BANKRUPTCY APPELLATE PANEL SERVICE.*—Section  
15          158(b) of title 28, United States Code, is amended—

16               (1) by striking paragraphs (3) and (4);

17               (2) by redesignating paragraph (2) as para-  
18          graph (4);

19               (3) by striking paragraph (1) and inserting the  
20          following new paragraphs:

21               “(1)(A) Except as provided in subparagraph (B), the  
22          judicial council of a circuit shall establish a bankruptcy  
23          appellate panel service composed of bankruptcy judges of  
24          the districts in the circuit who are appointed by the judicial  
25          council in accordance with paragraph (3), to hear and de-

1 *termine, with the consent of all parties to an appeal, ap-*  
2 *peals under subsection (a).*

3       “(B)(i) *The judicial council of a circuit need not estab-*  
4 *lish a bankruptcy appellate panel service if the judicial*  
5 *council finds that—*

6               “(I) *there are insufficient judicial resources*  
7 *available in the circuit; or*

8               “(II) *establishment of such a service would result*  
9 *in undue delay or increased cost to parties in cases*  
10 *under title 11.*

11       “(ii) *Not later than 90 days after making a finding*  
12 *under clause (i), the judicial council shall submit to the*  
13 *Judicial Conference a report containing the factual basis*  
14 *of the finding.*

15       “(2)(A) *A judicial council may reconsider a finding*  
16 *described in paragraph (1)(B) at any time.*

17       “(B) *On the request of a majority of the district judges*  
18 *in a circuit for which a bankruptcy appellate panel service*  
19 *is established under paragraph (1), made after the expira-*  
20 *tion of the 1-year period beginning on the date on which*  
21 *the service is established, the judicial council of the circuit*  
22 *shall determine whether a circumstance described in para-*  
23 *graph (1)(B)(i) (I) or (II) exists.*

24       “(C) *On its own motion, after the expiration of the*  
25 *3-year period beginning on the date on which a bankruptcy*

1 *appellate panel service is established under paragraph (1),*  
2 *the judicial council of a circuit may determine whether a*  
3 *circumstance described in paragraph (1)(B)(i) (I) or (II)*  
4 *exists.*

5 *“(D) If the judicial council of a circuit finds that a*  
6 *circumstance described in paragraph (1)(B)(i) (I) or (II)*  
7 *exists, the judicial council may provide for the completion*  
8 *of the appeals then pending before a bankruptcy appellate*  
9 *panel service and the orderly termination of the service.*

10 *“(3) Bankruptcy judges appointed under paragraph*  
11 *(1) shall be appointed for a term of 2 years and may be*  
12 *reappointed under that paragraph.”; and*

13 *(4) by inserting after paragraph (4), as redesign-*  
14 *ated by paragraph (2), the following new para-*  
15 *graphs:*

16 *“(5) An appeal to be heard under this subsection shall*  
17 *be heard by a panel of 3 members of the bankruptcy appel-*  
18 *late panel service, except that a member of the service may*  
19 *not hear an appeal originating in the district for which*  
20 *the member is appointed or designated under section 152.*

21 *“(6) Appeals may not be heard under this subsection*  
22 *by a panel of the bankruptcy appellate panel service unless*  
23 *the district judges for the district in which the appeals*  
24 *occur, by majority vote, have authorized the service to hear*  
25 *and determine appeals originating in that district.”.*

1       (c) *APPEALS TO BE HEARD BY BANKRUPTCY APPEL-*  
 2 *LATE PANEL SERVICE.*—Section 158 of title 28, United  
 3 *States Code, is amended—*

4           (1) *in subsection (c) by striking “(c) An appeal”*  
 5 *and inserting the following:*

6       “(c)(1) *Subject to subsection (b), an appeal under sub-*  
 7 *section (a) shall be heard by a 3-judge panel of the bank-*  
 8 *ruptcy appellate panel service established under subsection*  
 9 *(b)(1) unless—*

10           “(A) *the appellant elects, at the time of filing the*  
 11 *appeal; or*

12           “(B) *any other party elects, not later than 30*  
 13 *days after service of notice of the appeal,*  
 14 *to have the appeal heard by the district court.*

15       “(2) *An appeal”.*

16       (d) *RULES OF PROCEDURE AND EVIDENCE; METHOD*  
 17 *OF PRESCRIBING.*—Section 2073 of title 28, United States  
 18 *Code, is amended—*

19           (1) *in subsection (a)(2) by striking “section*  
 20 *2072” and inserting “sections 2072 and 2075”; and*

21           (2) *in subsections (d) and (e) by inserting “or*  
 22 *2075” after “2072” each place it appears.*

23       (f) *EFFECTIVE DATE OF BANKRUPTCY RULES.*—The  
 24 *third undesignated paragraph of section 2075 of title 28,*  
 25 *United States Code, is amended to read as follows:*

1       *“The Supreme Court shall transmit to Congress not*  
 2 *later than May 1 of the year in which a rule prescribed*  
 3 *under this section is to become effective a copy of the pro-*  
 4 *posed rule. The rule shall take effect no earlier than Decem-*  
 5 *ber 1 of the year in which it is transmitted to Congress*  
 6 *unless otherwise provided by law.”.*

7       **SEC. 106. PARTICIPATION BY BANKRUPTCY ADMINIS-**  
 8                               **TRATOR AT MEETINGS OF CREDITORS AND**  
 9                               **EQUITY SECURITY HOLDERS.**

10       (a) *PRESIDING OFFICER.*—A bankruptcy adminis-  
 11 *trator appointed under section 302(d)(3)(I) of the Bank-*  
 12 *ruptcy Judges, United States Trustees, and Family Farmer*  
 13 *Bankruptcy Act of 1986 (28 U.S.C. 581 note; 100 Stat.*  
 14 *3123), or the bankruptcy administrator’s designee, may*  
 15 *preside at—*

16               (1) *a meeting of creditors convened under section*  
 17 *341(a) of title 11, United States Code; and*

18               (2) *a meeting of equity security holders convened*  
 19 *under section 341(b) of title 11, United States Code.*

20       (b) *EXAMINATION OF THE DEBTOR.*—The bankruptcy  
 21 *administrator or the bankruptcy administrator’s designee*  
 22 *may examine the debtor at the meeting of creditors and may*  
 23 *administer the oath required under section 343 of title 11,*  
 24 *United States Code.*



1 **SEC. 107. DEFINITION RELATING TO ELIGIBILITY TO SERVE**  
 2 **ON CHAPTER 11 COMMITTEES.**

3 *The definition of “person” in section 101 of title 11,*  
 4 *United States Code, as amended by section 501(a), is*  
 5 *amended to read as follows:*

6 *“‘person’ includes an individual, partnership,*  
 7 *and corporation, but does not include a governmental*  
 8 *unit, except that a governmental unit that—*

9 *“(A) acquires an asset from a person—*

10 *“(i) as a result of the operation of a*  
 11 *loan guarantee agreement; or*

12 *“(ii) as receiver or liquidating agent of*  
 13 *a person;*

14 *“(B) is a guarantor of a pension benefit*  
 15 *payable by or on behalf of the debtor or an affili-*  
 16 *ate of the debtor; or*

17 *“(C) is the legal or beneficial owner of an*  
 18 *asset of—*

19 *“(i) an employee pension benefit plan*  
 20 *that is a governmental plan, as defined in*  
 21 *section 414(d) of the Internal Revenue Code*  
 22 *of 1986; or*

23 *“(ii) an eligible deferred compensation*  
 24 *plan, as defined in section 457(b) of the In-*  
 25 *ternal Revenue Code of 1986,*

1       *shall be considered, for purposes of section 1102, to be*  
2       *a person with respect to such asset or such benefit.”.*

3       **SEC. 108. INCREASED INCENTIVE COMPENSATION FOR**  
4               **TRUSTEES.**

5       *Section 326(a) of title 11, United States Code, is*  
6       *amended to read as follows:*

7               “(a)(1) *In a case under chapter 7 or 11, the court may*  
8       *allow reasonable compensation of the trustee under section*  
9       *330 for the trustee’s services, payable after the trustee ren-*  
10       *ders such services, in an amount that does not exceed—*

11               “(A) *the value of the funds and other property*  
12       *disbursed or turned over by the trustee to parties in*  
13       *interest in the case (excluding the debtor but includ-*  
14       *ing holders of secured claims), multiplied by*

15               “(B) *the applicable percentage stated in para-*  
16       *graph (2).*

17               “(2) *The applicable percentage stated in this para-*  
18       *graph is the following percentage of the value of the funds*  
19       *and other property disbursed or turned over by the trustee:*

20               “(A) *25 percent of any amount up to \$4,999.*

21               “(B) *10 percent of any amount between \$5,000*  
22       *and \$49,999 inclusive.*

23               “(C) *5 percent of any amount between \$50,000*  
24       *and \$999,999 inclusive.*

1           “(D) A reasonable percentage, not to exceed 3  
2           percent, of any amount greater than \$999,999.”.

3   **SEC. 109. DOLLAR ADJUSTMENTS.**

4           (a) *WHO MAY BE A DEBTOR UNDER CHAPTER 13.*—  
5   Section 109(e) of title 11, United States Code, is amended—

6           (1) by striking “unsecured debts of less than  
7           \$100,000 and noncontingent, liquidated, secured debts  
8           of less than \$350,000” and inserting “debts of less  
9           than \$1,000,000”; and

10          (2) by striking “unsecured debts that aggregate  
11          less than \$100,000 and noncontingent, liquidated, se-  
12          cured debts of less than \$350,000” and inserting  
13          “debts in the aggregate of less than \$1,000,000”.

14          (b) *INVOLUNTARY CASES.*—Section 303(b) of title 11,  
15   United States Code, is amended—

16          (1) in paragraph (1) by striking “\$5,000” and  
17          inserting “\$10,000”; and

18          (2) in paragraph (2) by striking “\$5,000” and  
19          inserting “\$10,000”.

20          (c) *PRIORITIES.*—Section 507(a) of title 11, United  
21   States Code, is amended—

22          (1) in paragraph (3)(B) by striking “\$2,000”  
23          and inserting “\$4,000”;

24          (2) in paragraph (4)(B)(i) by striking “\$2,000”  
25          and inserting “\$4,000”;

1           (3) in paragraph (5) by striking “\$2,000” and  
2           inserting “\$4,000”; and

3           (4) in paragraph (6)—

4                 (A) by striking “, to the extent of \$900 for  
5                 each such individual,”; and

6                 (B) by inserting “, to the extent of \$1,800  
7                 for each such individual or, in the case of a de-  
8                 posit made jointly by 2 or more individuals with  
9                 respect to the same purchase, lease, or rental, for  
10                each such group of individuals” before the pe-  
11               riod.

12           (d) *EXEMPTIONS.*—Section 522(d) of title 11, United  
13   States Code, is amended—

14                 (1) in paragraph (1) by striking “\$7,500” and  
15                 inserting “\$15,000”;

16                 (2) in paragraph (2) by striking “\$1,200” and  
17                 inserting “\$2,400”;

18                 (3) in paragraph (3)—

19                         (A) by striking “\$200” and inserting  
20                         “\$400”; and

21                         (B) by striking “\$4,000” and inserting  
22                         “\$8,000”;

23                 (4) in paragraph (4) by striking “\$500” and in-  
24                 serting “\$1,000”;

25                 (5) in paragraph (5)—

1           (A) by striking “\$400” and inserting  
2           “\$800”; and

3           (B) by striking “\$3,750” and inserting  
4           “\$7,500”;

5           (6) in paragraph (6) by striking “\$750” and in-  
6           serting “\$1,500”;

7           (7) in paragraph (8) by striking “\$4,000” and  
8           inserting “\$8,000”; and

9           (8) in paragraph (11)(D) by striking “\$7,500”  
10          and inserting “\$15,000”.

11          (e) *APPOINTMENT OF EXAMINER IN CERTAIN CIR-*  
12 *CUMSTANCES.*—Section 1104(b)(2) of title 11, United States  
13 *Code*, is amended by striking “\$5,000,000” and inserting  
14 “\$10,000,000”.

15 **SEC. 110. PREMERGER NOTIFICATION.**

16          Sections 363(b)(2) (A) and (B) of title 11, United  
17 *States Code*, are amended to read as follows:

18               “(A) notwithstanding subsection (a) of that  
19               section, the notification required to be given by  
20               the debtor shall be given by the trustee; and

21               “(B) notwithstanding subsection (b) of that  
22               section, the required waiting period shall end on  
23               the 10th day after the date of receipt of the noti-  
24               fication, unless the waiting period is extended—

1                   “(i) pursuant to subsection (e)(2) or  
2                   (g)(2) of that section; or

3                   “(ii) by the court, after notice and a  
4                   hearing.”.

5 **SEC. 111. ALLOWANCE OF CREDITOR COMMITTEE EX-**  
6 **PENSES.**

7       Section 503(b) of title 11, United States Code, is  
8 amended—

9               (1) by striking “and” at the end of paragraph  
10              (5);

11              (2) by striking the period at the end of para-  
12              graph (6) and inserting “; and”; and

13              (3) by adding at the end the following new para-  
14              graph:

15              “(7) the actual, necessary expenses incurred by a  
16              member of a committee appointed under section 1102  
17              in the performance of the duties of the committee (in-  
18              cluding fees of an attorney or accountant for profes-  
19              sional services rendered for the member to the extent  
20              allowable under paragraph (4)), other than claims for  
21              compensation for services rendered as a member of the  
22              committee.”.

23 **SEC. 112. JUDICIAL CONFERENCE REPORT.**

24       Not later than 1 year after the date of enactment of  
25 this Act, the Judicial Conference of the United States shall

1 *produce and submit to the appropriate committees of Con-*  
 2 *gress a report containing a description of—*

3 *(1) the efforts of the Federal judiciary to auto-*  
 4 *mate and computerize the Federal bankruptcy courts;*

5 *(2) the types of information that are currently*  
 6 *available to Congress and the public regarding the*  
 7 *number, size, and types of bankruptcy cases filed in*  
 8 *the Federal courts;*

9 *(3) the types of additional information that the*  
 10 *Federal judiciary believes are necessary and desirable*  
 11 *to enhance its ability to manage the affairs of the*  
 12 *bankruptcy system; and*

13 *(4) the projected timetable for being able to sup-*  
 14 *ply those additional types of information to Congress*  
 15 *and the public in the future.*

16 **SEC. 113. SERVICE OF PROCESS.**

17 *Rule 7004(b)(3) of the Bankruptcy Rules is amend-*  
 18 *ed—*

19 *(1) by inserting “, by certified or registered*  
 20 *mail,” after “complaint”; and*

21 *(2) by inserting “, by certified or registered*  
 22 *mail,” after “copy”.*

1   **SEC. 114. MEETINGS OF CREDITORS AND EQUITY SECURITY**  
2                   **HOLDERS.**

3       *Section 341 of title 11, United States Code, is amended*  
4 *by adding at the end the following new subsection:*

5       “(d) *Prior to the conclusion of the meeting of creditors*  
6 *or equity security holders, the United States trustee shall*  
7 *orally examine the debtor under oath and make rec-*  
8 *ommendations on a preserved record regarding the debtor’s*  
9 *knowledge of—*

10           “(1) *the potential consequences of seeking a dis-*  
11 *charge in bankruptcy, including the effects on credit*  
12 *history;*

13           “(2) *the debtor’s ability to file a petition under*  
14 *a different chapter of this title;*

15           “(3) *the effect of receiving a discharge of debts*  
16 *under this title;*

17           “(4) *the effect of reaffirming a debt, including*  
18 *the debtor’s knowledge of the provisions of section*  
19 *524(d);*

20           “(5) *the debtor’s duties under section 521; and*

21           “(6) *the potential penalties and fines for com-*  
22 *mitting fraud or other abuses of this title.”.*

23   **SEC. 115. TAX ASSESSMENT.**

24       *Section 362(b)(9) of title 11, United States Code, is*  
25 *amended to read as follows:*



1           “(9) under subsection (a), of an audit by a gov-  
 2           ernmental unit to determine tax liability, of the issu-  
 3           ance to the debtor by a governmental unit of a notice  
 4           of tax deficiency, of a demand for tax returns, or of  
 5           an assessment of an uncontested or agreed upon tax  
 6           liability;”.

7           ***TITLE II—COMMERCIAL ISSUES***  
 8           ***IN BANKRUPTCY***

9           ***SEC. 201. SMALL BUSINESS CHAPTER.***

10          (a) *DEFINITION.*—Section 101 of title 11, United  
 11          States Code, is amended by inserting in its proper alphabet-  
 12          ical position the following new definition:

13                “‘small business’ means a person engaged in  
 14                commercial or business activities (but does not in-  
 15                clude a person whose primary activity is the business  
 16                of owning or operating real property and activities  
 17                incidental thereto) whose aggregate liquidated secured  
 18                and unsecured debts as of the date of the petition do  
 19                not exceed \$2,500,000.”.

20          (b) *WHO MAY BE A DEBTOR UNDER CHAPTER 10.*—  
 21          Section 109 is amended by adding at the end the following  
 22          new subsection:

23                “(h) Only a small business may be a debtor under  
 24                chapter 10.”.

1 (c) *TEMPORARY CHAPTER APPLICABLE TO SMALL*  
 2 *BUSINESSES.—Title 11, United States Code, is amended by*  
 3 *inserting after chapter 9 the following new chapter:*

4 **“CHAPTER 10—SMALL BUSINESSES**

*“SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE*

*“Sec.*

*“1001. Definitions for this chapter.*

*“1002. Commencement of case.*

*“1003. Trustee.*

*“1004. Rights and powers of debtor.*

*“1005. Removal of debtor as debtor-in-possession.*

*“1006. Property of the estate.*

*“1007. Conversion or dismissal.*

*“SUBCHAPTER II—THE PLAN*

*“1021. Filing of plan.*

*“1022. Contents of plan.*

*“1023. Postpetition disclosure and solicitation.*

*“1024. Modification of plan before confirmation.*

*“1025. Confirmation hearing.*

*“1026. Confirmation of plan.*

*“1027. Payments.*

*“1028. Effect of confirmation.*

*“1029. Modification of plan after confirmation.*

*“1030. Revocation of order of confirmation.*

5 **“Subchapter I—Officers, Administration, and**  
 6 ***the Estate***

7 **“§ 1001. Definitions for this chapter**

8 *“In this chapter, ‘disposable income’ means income*  
 9 *that is received by a debtor and that is not reasonably nec-*  
 10 *essary to be expended for the payment of expenditures nec-*  
 11 *essary for the continuation, preservation, and operation of*  
 12 *the debtor’s business.*

13 **“§ 1002. Commencement of case**

14 *“(a) ELECTION BY DEBTOR.—A person that is eligible*  
 15 *to be a small business debtor may commence a case under*

1 *this chapter by filing a voluntary petition electing to be*  
2 *treated as a small business.*

3 “(b) *CONVERSION.*—

4 “(1) *THIS CHAPTER TO CHAPTER 11.*—Upon the  
5 *motion of a party in interest, and after notice and*  
6 *a hearing, the court may determine that a person sub-*  
7 *ject to an order for relief electing treatment under this*  
8 *chapter does not qualify as a small business, and that*  
9 *the case shall be converted to a case under chapter 11,*  
10 *12, or 13.*

11 “(2) *COMPENSATION OF TRUSTEE.*—Prior to the  
12 *court’s conversion of a case under this section, the*  
13 *court shall charge upon and require to be paid from*  
14 *the estate such compensation as the court finds rea-*  
15 *sonable under the circumstances to compensate the*  
16 *trustee appointed and serving under section 1003.*

17 **“§ 1003. Trustee**

18 “(a) *PERSON TO SERVE.*—If the United States trustee  
19 *has appointed a person under section 586(b) of title 28 to*  
20 *serve as a standing trustee in cases under this chapter and*  
21 *if that person qualifies as a trustee under section 322, that*  
22 *person shall serve as a trustee in any case filed under this*  
23 *chapter. If such a person has not been appointed, the United*  
24 *States trustee shall appoint one disinterested person to serve*

1 *as trustee in the case or the United States trustee may serve*  
 2 *as trustee in the case.*

3 “(b) *DUTIES.*—*The trustee shall—*

4 “(1) *perform the duties described in section 704*  
 5 *(2), (3), (5), (6), (7), and (9);*

6 “(2) *perform the duties described in section*  
 7 *1106(a) (3) and (4) if the court, for cause and on a*  
 8 *request of a party in interest, the trustee, or the Unit-*  
 9 *ed States trustee, so orders;*

10 “(3) *appear and be heard at any hearing that*  
 11 *concerns—*

12 “(A) *the value of property subject to a lien;*

13 “(B) *the operation of the business activity*  
 14 *of the person by the debtor;*

15 “(C) *the filing of a plan and the approval*  
 16 *of a disclosure statement;*

17 “(D) *confirmation of a plan;*

18 “(E) *modification of a plan after confirma-*  
 19 *tion; or*

20 “(F) *the sale of property of the estate;*

21 “(4) *ensure that the debtor timely files a plan*  
 22 *and disclosure statement;*

23 “(5) *ensure that the debtor commences making*  
 24 *timely payments required by a confirmed plan;*

1           “(6) if the debtor ceases to be a debtor-in-possession,  
2           perform the duties described in sections 704(8)  
3           and 1106(a) (1), (2), (6), and (7);

4           “(7) investigate the financial affairs of the debtor  
5           including, but not limited to, the proper use of disposable  
6           income;

7           “(8) file and serve the report required by section  
8           1029(d); and

9           “(9) file such motions as are appropriate under  
10          section 1029.

11       **“§ 1004. Rights and powers of debtor**

12          “Subject to such limitations as the court may prescribe,  
13          a debtor-in-possession shall have all the rights, other  
14          than the right to compensation under section 330, and powers,  
15          and shall perform all the functions and duties, except  
16          the duties described in section 1106(a) (3) and (4), of a  
17          trustee serving in a case under chapter 11, including operating  
18          the debtor’s business activities.

19       **“§ 1005. Removal of debtor as debtor-in-possession**

20          “(a) ORDER FOR CAUSE.—On request of a party in  
21          interest, and after notice and a hearing, the court shall  
22          order that the debtor shall not be a debtor-in-possession if  
23          cause, including fraud, dishonesty, incompetence, or gross  
24          mismanagement of the affairs of the debtor, either before  
25          or after the commencement of the case, is shown.

1       “(b) *REINSTATEMENT*.—On request of a party in in-  
2       terest, and after notice and a hearing, the court may rein-  
3       state the debtor-in-possession.

4       **“§ 1006. Property of the estate**

5       “(a) *PROPERTY INCLUDED*.—Property of the estate in-  
6       cludes, in addition to property described in section 541, all  
7       property of the kind specified in that section that the debtor  
8       acquires after the commencement of the case but before the  
9       case is closed, dismissed, or converted to a case under chap-  
10      ter 7, whichever comes first.

11      “(b) *POSSESSION*.—Except as provided in section  
12      1005 or in a confirmed plan or order confirming a plan,  
13      a debtor shall remain in possession of all property of the  
14      estate.

15      **“§ 1007. Conversion or dismissal**

16      “(a) *CONVERSION BY DEBTOR*.—A debtor may convert  
17      a case under this chapter to a case under chapter 7 at any  
18      time if the debtor may be a debtor under that chapter. Any  
19      waiver of the right to convert under this subsection is unen-  
20      forceable.

21      “(b) *DISMISSAL BY DEBTOR*.—On request of the debtor  
22      at any time, if the case has not been converted under section  
23      706 or 1112, the court may dismiss a case under this chap-  
24      ter.

1       “(c) *CONVERSION OR DISMISSAL AT REQUEST OF*  
2 *PARTY IN INTEREST.*—

3               “(1) *IN GENERAL.*—*On request of a party in in-*  
4 *terest, and after notice and a hearing, the court may*  
5 *convert a case under this chapter to a case under*  
6 *chapter 7 (if the debtor may be a debtor under this*  
7 *chapter) or may dismiss the case for cause.*

8               “(2) *CAUSE.*—*For purposes of paragraph (1),*  
9 *cause includes—*

10               “(A) *unreasonable delay or gross mis-*  
11 *management by the debtor that is prejudicial to*  
12 *creditors;*

13               “(B) *nonpayment of any fees and charges*  
14 *required under chapter 123 of title 28;*

15               “(C) *failure to file a plan timely under sec-*  
16 *tion 1021;*

17               “(D) *failure to file a disclosure statement*  
18 *timely under section 1023;*

19               “(E) *failure to commence making timely*  
20 *payments required by a confirmed plan;*

21               “(F) *denial of confirmation of a plan under*  
22 *section 1026 or denial of a request made for ad-*  
23 *ditional time to filing another plan or a modi-*  
24 *fication of a plan;*

1           “(G) material default by a debtor with re-  
2           spect to a term of a confirmed plan;

3           “(H) revocation of an order of confirmation  
4           under section 1030 or denial of confirmation of  
5           a modified plan under section 1029;

6           “(I) termination of a confirmed plan by  
7           reason of the occurrence of a condition specified  
8           in the plan; and

9           “(J) continuing loss to or diminution of the  
10          estate and absence of a reasonable likelihood of  
11          rehabilitation.

12          “(d) *COMPENSATION OF TRUSTEE.*—Prior to the  
13          court’s conversion or dismissal of a case under this section,  
14          the court shall charge upon and require to be paid from  
15          the estate such compensation as the court finds reasonable  
16          under the circumstances to compensate the trustee ap-  
17          pointed and serving under section 1003.

## 18                   **“Subchapter II—The Plan**

### 19          **“§ 1021. Filing of plan**

20          “The debtor shall file a plan not later than 90 days  
21          after the date of entry of the order for relief under this chap-  
22          ter, except that the court may, for cause shown, and after  
23          notice and hearing, shorten or extend that period if such  
24          shortening or extension is substantially justified.



1   **“§ 1022. Contents of plan**

2       “(a) *REQUIRED CONTENTS.*—*The plan shall—*

3           “(1) *provide for the submission of all or such*  
4       *portion of future earnings or other future income of*  
5       *the debtor to the supervision and control of the trustee*  
6       *as is necessary for the execution of the plan; and*

7           “(2) *if the plan classifies claims and interests,*  
8       *provide the same treatment for each claim or interest*  
9       *within a particular class unless the holder of a par-*  
10      *ticular claim or interest agrees to less favorable treat-*  
11      *ment.*

12      “(b) *ADDITIONAL CONTENTS.*—*Subject to subsections*  
13      *(a) and (c), the plan may—*

14           “(1) *designate a class or classes of unsecured*  
15      *claims, as provided in section 1122, but may not dis-*  
16      *criminate unfairly against any class so designated;*  
17      *however, the plan may treat claims for a consumer*  
18      *debt differently from other unsecured claims if an-*  
19      *other individual is liable on the consumer debt with*  
20      *the debtor;*

21           “(2) *modify the rights of holders of secured*  
22      *claims or holders of unsecured claims, or leave unaf-*  
23      *fecting the rights of holders of any class of claims, but*  
24      *the plan may not modify a claim pursuant to section*  
25      *506 of a person holding a primary or junior security*  
26      *interest in real property or a manufactured home (as*

1     *defined in section 603(6) of the National Manufac-*  
2     *tured Housing Construction and Safety Standards*  
3     *Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's*  
4     *principal residence, except that the plan may modify*  
5     *the claim of a person holding such a junior security*  
6     *interest that was undersecured at the time the interest*  
7     *attached to the extent that the interest remains*  
8     *undersecured;*

9             *“(3) provide for the curing or waiving of any de-*  
10     *fault;*

11             *“(4) provide for payments on any unsecured*  
12     *claim to be made concurrently with payments on any*  
13     *secured claim or any other unsecured claim;*

14             *“(5) notwithstanding paragraph (2), provide for*  
15     *the curing of any default within a reasonable time*  
16     *and maintenance of payments while the case is pend-*  
17     *ing on any unsecured claim or secured claim on*  
18     *which the last payment is due after the date on which*  
19     *the final payment under the plan is due;*

20             *“(6) subject to section 365, provide for the as-*  
21     *sumption, rejection, or assignment of any executory*  
22     *contract or expired lease of the debtor not previously*  
23     *rejected under that section;*

1           “(7) provide for the payment of all or part of a  
2       claim against the debtor from the property of the es-  
3       tate or property of the debtor;

4           “(8) provide for the sale of all or any part of the  
5       property of the estate among those having an interest  
6       in such property;

7           “(9) provide for payment of allowed secured  
8       claims, consistent with section 1026(a)(5), over a pe-  
9       riod exceeding the period permitted under section  
10      1022(c);

11          “(10) provide for the vesting of property of the  
12      estate on confirmation of the plan or at a later time,  
13      in the debtor or any other entity; and

14          “(11) include any other appropriate provision  
15      not inconsistent with this title.

16      “(c) *LIMITATION.*—Except as provided in subsection  
17   (b) (5) and (9), the plan may not provide for payments  
18   over a period that is longer than 3 years unless the court  
19   for cause approves a longer period, but the court may not  
20   approve a period that is longer than 5 years.

21   **“§ 1023. Postpetition disclosure and solicitation**

22      “(a) *PLAN AND DISCLOSURE STATEMENT.*—In a case  
23   under this chapter, an acceptance or rejection of a plan  
24   may not be solicited after the commencement of the case  
25   from a holder of a claim or interest with respect to the claim

1 *or interest unless, at the time or before such solicitation,*  
 2 *there is transmitted to the holder the plan or a summary*  
 3 *of the plan and a written disclosure statement that includes*  
 4 *information sufficient to show whether or not the plan meets*  
 5 *the requirements of section 1026.*

6 “(b) *FORM.*—The court may require that the summary  
 7 of the plan and the disclosure statement employ a standard  
 8 form approved by the court.

9 “**§ 1024. Modification of plan before confirmation**

10 “(a) *IN GENERAL.*—A debtor may modify a plan at  
 11 any time before confirmation but may not modify the plan  
 12 so that the plan as modified fails to meet the requirements  
 13 of section 1022.

14 “(b) *EFFECT.*—After a debtor files a modification  
 15 under this section, the plan as modified becomes the plan.

16 “(c) *ACCEPTANCE.*—A holder of a secured claim that  
 17 has accepted or rejected a plan is deemed to have accepted  
 18 or rejected, as the case may be, the plan as modified, un-  
 19 less—

20 “(1) *the modification provides for a change in*  
 21 *the rights of the holder under the plan before modi-*  
 22 *fication; and*

23 “(2) *the holder changes the holder’s previous ac-*  
 24 *ceptance or rejection.*

1   **“§ 1025. Confirmation hearing**

2           “(a) *HEARING.*—After expedited notice, the court shall  
3   *hold a hearing on confirmation of the plan.*

4           “(b) *OBJECTION TO CONFIRMATION.*—A party in in-  
5   *terest, the trustee, or the United States trustee may object*  
6   *to the confirmation of the plan.*

7           “(c) *OBJECTION TO DISCLOSURE OF INFORMATION.*—  
8   *A party in interest, the trustee, or the United States trustee*  
9   *may object to the disclosure of information that is required*  
10   *to be disclosed under section 1023.*

11          “(d) *CONCLUSION OF HEARING.*—Except for cause, the  
12   *hearing shall be concluded not later than 45 days after the*  
13   *filing of the plan.*

14   **“§ 1026. Confirmation of plan**

15          “(a) *CRITERIA.*—Except as provided in subsection (b),  
16   *the court shall confirm a plan if—*

17               “(1) *the plan complies with all applicable provi-*  
18               *sions of this title;*

19               “(2) *any fee, charge, or amount required under*  
20               *chapter 123 of title 28, or by the plan, to be paid be-*  
21               *fore confirmation, has been paid;*

22               “(3) *the plan has been proposed in good faith*  
23               *and not by any means forbidden by law;*

24               “(4) *the value of property to be distributed under*  
25               *the plan on account of each unsecured claim, as of the*  
26               *effective date of the plan, is not less than the amount*

1       *that would be paid on the claim if the estate of the*  
2       *debtor were to be liquidated under chapter 7 on that*  
3       *date;*

4               “(5) *with respect to each allowed secured claim*  
5       *provided for by the plan—*

6                       “(A) *the holder of the claim has accepted the*  
7       *plan;*

8                       “(B)(i) *the plan provides that the holder of*  
9       *the claim will retain the lien securing the claim;*  
10       *and*

11                      “(ii) *the value of property to be distributed*  
12       *by the trustee or the debtor under the plan on ac-*  
13       *count of the claim, as of the effective date of the*  
14       *plan, is not less than the allowed amount of the*  
15       *claim; or*

16                      “(C) *the debtor surrenders the property se-*  
17       *curing the claim to the holder;*

18               “(6) *the debtor will be able to make all payments*  
19       *under the plan and to comply with the plan;*

20               “(7) *except to the extent that the holder of a*  
21       *claim has agreed to a different treatment of the claim,*  
22       *the plan provides that—*

23                      “(A) *with respect to a claim of a kind de-*  
24       *scribed in section 507(a) (1) or (2), on the effec-*  
25       *tive date of the plan, the holder of the claim will*

1       *receive on account of the claim cash equal to the*  
2       *allowed amount of the claim;*

3               *“(B) with respect to a class of claims of a*  
4       *kind described in section 507(a) (3), (4), (5), or*  
5       *(6), each holder of a claim of the class will re-*  
6       *ceive cash or deferred cash payments of a value,*  
7       *as of the effective date of the plan, equal to the*  
8       *allowed amount of such claims; and*

9               *“(C) with respect to a claim of a kind de-*  
10       *scribed in section 507(a)(7), the holder of the*  
11       *claim will receive on account of the claim de-*  
12       *ferred cash payments, over a period ending on*  
13       *the later of—*

14               *“(i) the date of termination of the*  
15       *plan; or*

16               *“(ii) the date that is 6 years after the*  
17       *date of assessment of the claim,*

18       *of a value, as of the effective date of the plan,*  
19       *equal to the allowed amount of the claim; and*

20               *“(8) confirmation of the plan is not likely to be*  
21       *followed by the liquidation or the need for further fi-*  
22       *nancial reorganization of the debtor or any successor*  
23       *to the debtor under the plan, unless liquidation or re-*  
24       *organization is proposed in the plan.*

1       “(b) *CONFIRMATION NOTWITHSTANDING NONCON-*  
2 *FORMANCE OR OBJECTION.*—If the trustee or the holder of  
3 *an allowed unsecured claim objects to the confirmation of*  
4 *the plan, the court may not approve the plan unless, as*  
5 *of the effective date of the plan—*

6               “(1) *the value of the property to be distributed*  
7 *under the plan on account of the claim is not less*  
8 *than the amount of the claim; or*

9               “(2) *the plan provides that all of the debtor’s*  
10 *projected disposable income to be received in the 3-*  
11 *year period, or such longer period as the court may*  
12 *approve under section 1022(c), beginning on the date*  
13 *on which the first payment is due under the plan,*  
14 *will be applied to make payments under the plan.*

15       **“§ 1027. Payments**

16       “(a) *RETENTION BY TRUSTEE.*—Payments and funds  
17 *received by the trustee shall be retained by the trustee until*  
18 *confirmation or denial of confirmation of a plan.*

19       “(b) *DISTRIBUTION FOLLOWING CONFIRMATION.*—If a  
20 *plan is confirmed, the trustee shall distribute in accordance*  
21 *with the plan payments and funds retained pursuant to*  
22 *subsection (a).*

23       “(c) *RETURN FOLLOWING NONCONFIRMATION.*—If a  
24 *plan is not confirmed, the trustee shall return any pay-*



1 ments and funds retained pursuant to subsection (a), after  
 2 deducting—

3 “(1) any unpaid claim allowed under section  
 4 503(b); and

5 “(2) if a standing trustee is serving in the case,  
 6 the percentage fixed for the standing trustee under  
 7 section 1003.

8 “(d) *PAYMENTS PRECEDING PAYMENTS TO CREDI-*  
 9 *TORS.*—Before or at the time of each payment to creditors  
 10 under the plan, there shall be paid—

11 “(1) any unpaid claim of a kind described in  
 12 section 507(a)(1); and

13 “(2) if a standing trustee is serving in the case,  
 14 the percentage fee fixed for such standing trustee  
 15 under section 1003.

16 “(e) *PAYMENTS TO CREDITORS.*—Except as otherwise  
 17 provided in the plan or in the order confirming the plan,  
 18 the trustee shall make payments to creditors under the plan.

19 **“§ 1028. Effect of confirmation**

20 “(a) *PERSONS BOUND.*—Except as provided in sub-  
 21 section (d) (2) and (3), a confirmed plan binds the debtor,  
 22 any entity issuing securities under the plan, any entity ac-  
 23 quiring property under the plan, and any creditor, equity  
 24 security holder, or general partner of the debtor, whether  
 25 or not the claim or interest of such creditor, equity security

1 holder, or general partner is impaired under the plan and  
 2 whether or not such creditor, equity security holder, or gen-  
 3 eral partner has accepted the plan.

4 “(b) *VESTING OF PROPERTY.*—Except as otherwise  
 5 provided in the plan or order confirming the plan, the con-  
 6 firmation of a plan vests all of the property of the estate  
 7 in the debtor.

8 “(c) *FREEDOM OF PROPERTY FROM CLAIMS AND IN-*  
 9 *TERESTS.*—Except as provided in subsection (d) (2) and  
 10 (3), and except as otherwise provided in the plan or in the  
 11 order confirming the plan, after confirmation of a plan, the  
 12 property dealt with by the plan is free and clear of all  
 13 claims and interests of creditors, equity security holders,  
 14 and general partners of the debtor.

15 “(d) *DISCHARGE OF DEBTOR.*—

16 “(1) *ON COMPLETION OF PAYMENTS.*—As soon as  
 17 practicable after completion by the debtor of all pay-  
 18 ments under the plan, other than payments to holders  
 19 of allowed claims provided for under section 1022(b)  
 20 (5) or (9), unless the court approves a written waiver  
 21 of discharge executed by the debtor after the order for  
 22 relief under this chapter, the court shall grant the  
 23 debtor a discharge of all debts provided for by the  
 24 plan allowed under section 503 or disallowed under  
 25 section 502, except any debt—

1           “(A) provided for under section 1022(b) (5)  
2           or (9); or

3           “(B) of the kind specified in section 523(a).

4           “(2) WHEN PAYMENTS ARE NOT COMPLETED.—

5           *At any time after the confirmation of the plan and*  
6           *after notice and a hearing, the court may grant a dis-*  
7           *charge to a debtor that has not completed payments*  
8           *under the plan if—*

9           “(A) the debtor’s failure to complete such  
10          *payments is due to circumstances for which the*  
11          *debtor should not be justly held accountable;*

12          “(B) the value, as of the effective date of the  
13          *plan, of property actually distributed under the*  
14          *plan on account of each allowed secured claim is*  
15          *not less than the amount that would have been*  
16          *paid on the claim if the estate of the debtor had*  
17          *been liquidated under chapter 7 on that date;*  
18          *and*

19          “(C) modification of the plan under section  
20          1029 is not practicable.

21          “(3) EFFECT.—A discharge granted under para-  
22          *graph (2) discharges the debtor from all unsecured*  
23          *debts provided for by the plan or disallowed under*  
24          *section 502, except any debt—*

1           “(A) provided for under section 1022(b) (5)  
2           or (9); or

3           “(B) of a kind specified in section 523(a).

4           “(4) REVOCATION.—On request of a party in in-  
5           terest made before the date that is 1 year after the  
6           date on which a discharge under this section is grant-  
7           ed, and after notice and hearing, the court may re-  
8           voke the discharge if—

9           “(A) the discharge was obtained by the debt-  
10          or through fraud; and

11          “(B) the requesting party did not know of  
12          the fraud until after the discharge was granted.

13          “(e) TERMINATION OF SERVICES OF TRUSTEE.—After  
14          the debtor is granted a discharge, the court shall terminate  
15          the services of any trustee serving in the case.

16       **“§ 1029. Modification of plan after confirmation**

17          “(a) IN GENERAL.—At any time after confirmation of  
18          a plan but before the completion of payments under the  
19          plan, the plan may be modified, on request of the debtor,  
20          the trustee, or the holder of any allowed unsecured claim,  
21          to—

22          “(1) increase or reduce the amount of payments  
23          of claims of a particular class provided for by the  
24          plan;

1           “(2) extend or reduce the time for such pay-  
2       ments; or

3           “(3) alter the amount of the distribution to a  
4       creditor whose claim is provided for by the plan to  
5       the extent necessary to take account of any payment  
6       of the claim other than under the plan.

7       “(b) *APPLICABILITY OF REQUIREMENTS.*—Sections  
8       1022 (a) and (b) and 1024 and the requirements of section  
9       1025(a) apply to a modification under subsection (a).

10       “(c) *LIMITATION.*—A plan modified under subsection  
11       (a) may not provide for payments over a period that expires  
12       after 3 years after the date on which the first payment  
13       under the original confirmed plan was due, unless the court,  
14       for cause, approves a longer period, but the court may not  
15       approve a period that expires after 5 years after that date.

16       “(d) *REPORT.*—Not later than 60 days after each an-  
17       niversary of the confirmation of the plan, the trustee shall  
18       file a report with the court, and serve a copy on all creditors  
19       requesting service of a copy of the report, setting forth—

20           “(1) the amount of distributions made to credi-  
21       tors during the preceding year;

22           “(2) a description of the debtor’s compliance  
23       with the provisions of the plan during the preceding  
24       year;

1           “(3) a description of the debtor’s disposable in-  
 2           come in relation to the continued ability to comply  
 3           with the terms of the confirmed plan; and

4           “(4) any modifications to the plan that are nec-  
 5           essary to ensure the reorganization of the debtor and  
 6           the payment to creditors of all disposal income.

7   **“§ 1030. Revocation of order of confirmation**

8           “(a) *REVOCATION FOR FRAUD.*—On request of a party  
 9           in interest at any time within 180 days after the date of  
 10          the entry of an order of confirmation under section 1028,  
 11          and after notice and a hearing, the court may revoke the  
 12          order if the order was procured by fraud.

13          “(b) *DISPOSITION OF CASE AFTER REVOCATION.*—If  
 14          the court revokes an order of confirmation under subsection  
 15          (a), the court shall dispose of the case under section 1007,  
 16          unless, within a time fixed by the court, the debtor proposes  
 17          and the court confirms a modification of the plan under  
 18          section 1029.”.

19          (d) *TECHNICAL AMENDMENTS.*—

20               (1) *TABLE OF CHAPTERS IN TITLE 11, UNITED*  
 21          *STATES CODE.*—Title 11, United States Code, is  
 22          amended in the table of chapters by inserting after the  
 23          item relating to chapter 9 the following new item:

**“10. Small Businesses ..... 1001”.**

1           (2) *CROSS-REFERENCES IN TITLE 11, UNITED*  
 2           *STATES CODE.—Title 11, United States Code, is*  
 3           *amended—*

4                   (A) *in section 321(a) by inserting “10,”*  
 5                   *after “7,” each place it appears;*

6                   (B) *in section 322(a) by inserting “1005”*  
 7                   *after “703,”;*

8                   (C) *in section 326(b)—*

9                           (i) *by striking “12 or 13” and insert-*  
 10                           *ing “10, 12, or 13”; and*

11                           (ii) *by striking “1202(a) or 1302(a)”*  
 12                           *and inserting “1005, 1202(a), or 1302(a)”;*

13                   (D) *in section 327—*

14                           (i) *in subsection (b) by inserting*  
 15                           *“1005,” after “721,”; and*

16                           (ii) *in subsection (c) by inserting “10,”*  
 17                           *after “7,”;*

18                   (E) *in section 329(b)(1)(B) by inserting*  
 19                   *“10,” after “chapter”;*

20                   (F) *in section 330(c) by striking “12 or 13”*  
 21                   *and inserting “10, 12, or 13”;*

22                   (G) *in section 346—*

23                           (i) *in subsection (b) by inserting “10,”*  
 24                           *after “7,”;*

1                   (ii) in subsection (g)(1)(C) by striking  
2                   “11 or 12” and inserting “10, 11, or 12”;  
3                   and

4                   (iii) in subsection (i)(1) by inserting  
5                   “10,” after “7,”;

6                   (H) in section 347—

7                   (i) in subsection (a)—

8                   (I) by inserting “1027,” after  
9                   “726,”; and

10                  (II) by inserting “10,” after “7,”;  
11                  and

12                  (ii) in subsection (b)—

13                  (I) by inserting “10,” after “9,”;  
14                  and

15                  (II) by inserting “1026,” after  
16                  “943(b),”;

17                  (I) in section 348—

18                  (i) in subsections (b), (c), and (e) by  
19                  inserting “1009,” after “706,” each place it  
20                  appears; and

21                  (ii) in subsection (d) by inserting  
22                  “1009,” after “section”;

23                  (J) in section 362(c)(2)(C) by inserting  
24                  “10,” after “9,”;

25                  (K) in section 363—



1           (i) in subsection (c)(1) by inserting  
2           “1006,” after “721,”; and

3           (ii) in subsection (l) by inserting “10,”  
4           after “chapter”;

5           (L) in section 364(a) by inserting “1006,  
6           1007,” after “721,”;

7           (M) in section 365—

8           (i) in subsections (d)(2) and (g) (1)  
9           and (2) by inserting “10,” after “9,” each  
10          place it appears; and

11          (ii) in subsection (g)(2) (A) and (B) by  
12          inserting “1009,” after “section” each place  
13          it appears;

14          (N) in section 502(g) by inserting “10,”  
15          after “9,”;

16          (O) in section 523(a) by inserting  
17          “1028(d),” after “727,”;

18          (P) in section 524—

19           (i) in subsections (a)(1), (c)(1), and  
20           (d) by inserting “1028(d),” after “727,”  
21           each place it appears; and

22           (ii) in subsection (a)(3) by inserting  
23           “1028(d),” after “523,”;

24          (Q) in section 546(a)(1) by inserting  
25          “1005,” after “702,”;

1           (R) in section 557(d)(3) by inserting  
2           “1005,” after “703,”;

3           (S) in section 706—

4               (i) in subsection (a)—

5                   (I) by inserting “10,” before  
6                   “11,”; and

7                   (II) by inserting “1009,” after  
8                   “section”; and

9               (ii) in subsection (c) by striking “12 or  
10               13” and inserting “10, 12, or 13”;

11           (T) in section 726(b) by inserting “1009,”  
12           after “chapter under section”;

13           (U) in section 1106(a)(5) by inserting “10,”  
14           after “7,”;

15           (V) in section 1306(a) (1) and (2) by in-  
16           serting “10,” after “7,” each place it appears;  
17           and

18           (W) in section 1307—

19               (i) in subsection (b) by inserting  
20               “1009,” after “706,”;

21               (ii) in subsection (d) by striking “11  
22               or 12” and inserting “10, 11, or 12”; and

23               (iii) in subsection (e) by inserting  
24               “10,” after “7,”.

1           (3) *BANKRUPTCY RULES.*—*The rules prescribed*  
 2           *under section 2075 of title 28, United States Code,*  
 3           *and in effect on the date of the enactment of this Act*  
 4           *shall apply to cases filed under chapter 10 of title 11,*  
 5           *United States Code, to the extent practicable and not*  
 6           *inconsistent with the amendments made by this Act.*

7           (4) *AMENDMENT OF TITLE 28, UNITED STATES*  
 8           *CODE.*—*Title 28, United States Code, is amended—*

9                   (A) *in section 157(b)(2)(B) by inserting*  
 10                  *“10,” after “chapter”;*

11                  (B) *in section 586—*

12                   (i) *in subsection (a)—*

13                           (I) *in paragraph (1)(C)—*

14                                   (aa) *by striking “12 and 13”*

15                                   *and inserting “10, 12, and 13”;*

16                                   *and*

17                                   (bb) *by inserting “1025,*

18                                   *1029,” after “sections”; and*

19                           (II) *in paragraph (3) in the mat-*  
 20                           *ter preceding subparagraph (A), by in-*  
 21                           *serting “10,” after “7.”;*

22                   (C) *in subsections (b), (d), and (e) by strik-*  
 23                   *ing “12 or 13” each place it appears and insert-*  
 24                   *ing “10, 12, or 13”; and*

25                   (D) *in section 1930(a)—*

1                   (i) by redesignating paragraphs (3),  
 2                   (4), (5), and (6) as paragraphs (4), (5), (6),  
 3                   and (7), respectively; and

4                   (ii) by inserting after paragraph (2)  
 5                   the following new paragraph:

6                   “(3) For a case commenced under chapter 10 of  
 7                   title 11, \$600.”.

8                   (5) AMENDMENT OF THE BANKRUPTCY, JUDGES,  
 9                   UNITED STATES TRUSTEES, AND FAMILY FARMER  
 10                  BANKRUPTCY ACT OF 1986.—Section 302 of the Bank-  
 11                  ruptcy Judges, United States Trustees, and Family  
 12                  Farmer Bankruptcy Act of 1986 (100 Stat. 3119) is  
 13                  amended in subsections (d) and (e) by inserting “10,”  
 14                  after “7,” each place it appears.

15                  (e) APPLICATION OF CHAPTER 10 OF TITLE 11.—

16                  (1) SELECTION OF DEMONSTRATION DIS-  
 17                  TRICTS.—Not later than 90 days after the date of en-  
 18                  actment of this Act, the Director of the Administra-  
 19                  tive Office of the United States Courts shall—

20                       (A) select 8 judicial districts in which chap-  
 21                       ter 10 of title 11, United States Code, shall be  
 22                       effective for a period of 3 years; and

23                       (B) identify those districts by notice in the  
 24                       Federal Register.

1           (2) *EFFECTIVE PERIOD.*—Chapter 10 of title 11,  
2       *United States Code*, shall become effective only in the  
3       8 judicial districts selected under paragraph (1), be-  
4       ginning on the date that is 90 days after the date of  
5       enactment of this Act and ending on the date that is  
6       3 years after that date.

7           (3) *REPEAL.*—(A) Chapter 10 of title 11, *United*  
8       *States Code*, is repealed on the date that is 3 years  
9       after the date that is 90 days after the date of enact-  
10      ment of this Act. All cases commenced or pending  
11      under that chapter and all matters and proceedings  
12      in or relating to those cases shall be conducted and  
13      determined under that chapter as if the chapter had  
14      not been repealed. The substantive rights of parties in  
15      connection with those cases, matters, and proceedings  
16      as if the chapter had not been repealed.

17           (B) The Committee on the Judiciary of the Sen-  
18      ate and the Committee on the Judiciary of the House  
19      of Representatives shall prepare and report to the  
20      Senate and the House of Representatives, respectively,  
21      not later than 90 days before the repeal date described  
22      in subparagraph (A), legislation proposing such tech-  
23      nical amendments as may be necessary or appro-  
24      priate at that time in view of the repeal made by sub-  
25      paragraph (A).

1 **SEC. 202. SINGLE ASSET REAL ESTATE.**

2 (a) *DEFINITION.*—Section 101 of title 11, United  
3 States Code, is amended by inserting in its proper alphabet-  
4 ical position the following new definition:

5 “ ‘single asset real estate’ means real property  
6 constituting a single property or project, other than  
7 residential real property with fewer than 4 residential  
8 units, which generates substantially all of the gross  
9 income of a debtor and on which no substantial busi-  
10 ness is being conducted by a debtor other than the  
11 business of operating the real property and activities  
12 incidental thereto.”.

13 (b) *AUTOMATIC STAY.*—Section 362 of title 11, United  
14 States Code, is amended—

15 (1) in subsection (d)—

16 (A) in paragraph (1) by striking “or” at  
17 the end;

18 (B) in paragraph (2) by striking the period  
19 at the end and inserting “; or”; and

20 (C) by adding at the end the following new  
21 paragraph:

22 “(3) with respect to a stay of an act against sin-  
23 gle asset real estate under subsection (a), by a creditor  
24 whose claim is secured by an interest in such real es-  
25 tate, unless, not later than the date that is 90 days  
26 after the entry of the order for relief (or such later

1       *date as the court may determine for cause by order*  
2       *entered within that 90-day period)—*

3               *“(A) the debtor has filed a plan of reorga-*  
4               *nization that has a reasonable possibility of*  
5               *being confirmed within a reasonable time; or*

6               *“(B) the debtor has commenced monthly*  
7               *payments to each creditor whose claim is secured*  
8               *by such real estate, which payments are in an*  
9               *amount equal to interest at a current fair mar-*  
10              *ket rate on the value of the creditor’s interest in*  
11              *the real estate.”; and*

12              *(2) by adding at the end the following new sub-*  
13              *section:*

14              *“(i)(1) Upon request of a creditor whose claim is se-*  
15              *cured by an interest in single asset real estate, if the interest*  
16              *has more than de minimis value, the court shall issue an*  
17              *order granting limited relief from the stay provided under*  
18              *subsection (a) to permit the creditor to continue a fore-*  
19              *closure proceeding commenced before the commencement of*  
20              *the case up to, but not including, the point of sale.*

21              *“(2) An order under paragraph (1) shall not issue be-*  
22              *fore the date that is 30 days after the date of entry of the*  
23              *order for relief, but thereafter shall issue promptly after*  
24              *such a request.*

1       “(3) A hearing shall not be required for the granting  
 2 of relief under paragraph (1) unless the debtor files an ob-  
 3 jection to the request and shows the court extraordinary cir-  
 4 cumstances requiring such a hearing.”.

5       **SEC. 203. AIRCRAFT EQUIPMENT, VESSELS, AND ROLLING**  
 6                               **STOCK EQUIPMENT.**

7       (a) AMENDMENT OF SECTION 1110.—Section 1110 of  
 8 title 11, United States Code, is amended to read as follows:

9       **“§ 1110. Aircraft equipment and vessels**

10       “(a)(1) The right of a secured party with a security  
 11 interest in equipment described in paragraph (2) or of a  
 12 lessor or conditional vendor of such equipment to take pos-  
 13 session of such equipment in compliance with a security  
 14 agreement, lease, or conditional sale contract is not affected  
 15 by section 362, 363, or 1129 or by any power of the court  
 16 to enjoin the taking of possession unless—

17       “(A) before the date that is 60 days after the  
 18 date of the order for relief under this chapter, the  
 19 trustee, subject to the court’s approval, agrees to per-  
 20 form all obligations of the debtor that become due on  
 21 or after the date of the order under such security  
 22 agreement, lease, or conditional sale contract; and

23       “(B) any default, other than a default of a kind  
 24 specified in section 365(b)(2), under such security  
 25 agreement, lease, or conditional sale contract—



1           “(i) that occurs before the date of the order  
2           is cured before the expiration of such 60-day pe-  
3           riod; and

4           “(ii) that occurs after the date of the order  
5           is cured before the later of—

6                   “(I) the date that is 30 days after the  
7                   date of the default; or

8                   “(II) the expiration of such 60-day pe-  
9                   riod.

10          “(2) Equipment is described in this paragraph if it  
11          is—

12               “(A) an aircraft, aircraft engine, propeller, ap-  
13               pliance, or spare part (as defined in section 101 of  
14               the Federal Aviation Act of 1958 (49 U.S.C. App.  
15               1301)) that is subject to a security interest granted  
16               by, leased to, or conditionally sold to a debtor that is  
17               an air carrier (as defined in that section, except that  
18               for the purposes of this section the term also includes  
19               an air carrier in intrastate commerce); or

20               “(B) a documented vessel (as defined in section  
21               30101(1) of title 46, United States Code) that is sub-  
22               ject to a security interest granted by, leased to, or  
23               conditionally sold to a debtor that is a water carrier  
24               that holds a certificate of public convenience and ne-

1        *cessity or permit issued by the Interstate Commerce*  
2        *Commission.*

3        *“(3) Paragraph (1) applies to a secured party, lessor,*  
4        *or conditional vendor acting in its own behalf or acting*  
5        *as trustee or otherwise in behalf of another party.*

6        *“(b) The trustee and the secured party, lessor, or condi-*  
7        *tional vendor whose right to take possession is protected*  
8        *under subsection (a) may agree, subject to the court’s ap-*  
9        *proval, to extend the 60-day period specified in subsection*  
10       *(a)(1).*

11       *“(c) If the trustee makes an agreement of the kind de-*  
12       *scribed in subsection (a)(1)(A) with respect to a security*  
13       *agreement, lease, or conditional sale contract, any costs and*  
14       *expenses incurred by the secured party, lessor, or condi-*  
15       *tional vendor to remedy the failure of the trustee to perform*  
16       *the obligations of the estate to maintain or return equip-*  
17       *ment in accordance with the security agreement, lease, or*  
18       *conditional sale contract constitute administrative expenses*  
19       *under section 503(b)(1)(A).*

20       *“(d) With respect to equipment first placed in service*  
21       *on or prior to the date of enactment of this subsection, for*  
22       *purposes of this section—*

23                *“(1) the term ‘lease’ includes any written agree-*  
24                *ment with respect to which the lessor and the debtor,*  
25                *as lessee, have expressed in the agreement or in a sub-*

1     *stantially contemporaneous writing that the agree-*  
 2     *ment is to be treated as a lease for Federal income*  
 3     *tax purposes; and*

4             *“(2) the term ‘security interest’ means a pur-*  
 5     *chase-money equipment security interest.”.*

6     *(b) AMENDMENT OF SECTION 1168.—Section 1168 of*  
 7     *title 11, United States Code, is amended to read as follows:*

8     ***“§ 1168. Rolling stock equipment***

9             *“(a)(1) The right of a secured party with a security*  
 10     *interest in or of a lessor or conditional vendor of equipment*  
 11     *described in paragraph (2) to take possession of such equip-*  
 12     *ment in compliance with an equipment security agreement,*  
 13     *lease, or conditional sale contract is not affected by section*  
 14     *362, 363, or 1129 or by any power of the court to enjoin*  
 15     *the taking of possession, unless—*

16             *“(A) before the date that is 60 days after the*  
 17     *date of commencement of a case under this chapter,*  
 18     *the trustee, subject to the court’s approval, agrees to*  
 19     *perform all obligations of the debtor that become due*  
 20     *on or after the date of commencement of the case*  
 21     *under such security agreement, lease, or conditional*  
 22     *sale contract; and*

23             *“(B) any default, other than a default of a kind*  
 24     *described in section 365(b)(2), under such security*  
 25     *agreement, lease, or conditional sale contract—*

1           “(i) that occurs before the date of com-  
2           mencement of the case and is an event of default  
3           therewith is cured before the expiration of such  
4           60-day period; and

5           “(ii) that occurs or becomes an event of de-  
6           fault after the date of commencement of the case  
7           is cured before the later of—

8                   “(I) the date that is 30 days after the  
9                   date of the default or event of default; or

10                   “(II) the expiration of such 60-day pe-  
11                   riod.

12           “(2) Equipment is described in this paragraph if it  
13           is rolling stock equipment or accessories used on such equip-  
14           ment, including superstructures and racks, that is subject  
15           to a security interest granted by, leased to, or conditionally  
16           sold to the debtor.

17           “(3) Paragraph (1) applies to a secured party, lessor,  
18           or conditional vendor acting in its own behalf or acting  
19           as trustee or otherwise in behalf of another party.

20           “(b) The trustee and the secured party, lessor, or condi-  
21           tional vendor whose right to take possession is protected  
22           under subsection (a) may agree, subject to the court’s ap-  
23           proval, to extend the 60-day period specified in subsection  
24           (a)(1).

1       “(c) If the trustee makes an agreement of the kind de-  
 2 scribed in subsection (a)(1)(A) with respect to a security  
 3 agreement, lease, or conditional sale contract, any costs and  
 4 expenses incurred by the secured party, lessor, or condi-  
 5 tional vendor to remedy the failure of the trustee to perform  
 6 the obligations of the estate to maintain or return equip-  
 7 ment in accordance with the security agreement, lease, or  
 8 conditional sale contract constitute administrative expenses  
 9 under section 503(b)(1)(A).

10       “(d) With respect to equipment first placed in service  
 11 on or prior to the date of enactment of this subsection, for  
 12 purposes of this section—

13               “(1) the term ‘lease’ includes any written agree-  
 14 ment with respect to which the lessor and the debtor,  
 15 as lessee, have expressed in the agreement or in a sub-  
 16 stantially contemporaneous writing that the agree-  
 17 ment is to be treated as a lease for Federal income  
 18 tax purposes; and

19               “(2) the term ‘security interest’ means a pur-  
 20 chase-money equipment security interest.”.

21       (c) APPLICATION OF AMENDMENTS.—

22               (1) IN GENERAL.—The amendment of sections  
 23 1110 and 1168 of title 11, United States Code, made  
 24 by subsections (a) and (b) shall not apply to cases

1       *commenced under title 11, United States Code, prior*  
 2       *to the date of enactment of this Act.*

3           (2) *PLACEMENT IN SERVICE.*—*The amendment of*  
 4       *section 1168(a) of title 11, United States Code, made*  
 5       *by subsection (b) shall take effect with respect to*  
 6       *equipment that is first placed in service after the date*  
 7       *of enactment of this Act, including rolling stock*  
 8       *equipment that is substantially rebuilt after that date*  
 9       *and accessories used on such equipment.*

10   **SEC. 204. UNEXPIRED LEASES OF PERSONAL PROPERTY IN**  
 11                   **CHAPTER 11 CASES.**

12       *Section 365(d)(3) of title 11, United States Code, is*  
 13       *amended in the first sentence by inserting after “real prop-*  
 14       *erty” the following: “and, in a case under chapter 11, under*  
 15       *an unexpired lease of personal property”.*

16   **SEC. 205. PROTECTION OF ASSIGNEES OF EXECUTORY CON-**  
 17                   **TRACTS AND UNEXPIRED LEASES APPROVED**  
 18                   **BY COURT ORDER IN CASES REVERSED ON**  
 19                   **APPEAL.**

20       *Section 365 of title 11, United States Code, is amended*  
 21       *by adding at the end the following new subsection:*

22       “(p) *The reversal or modification on appeal of an au-*  
 23       *thorization under this section of an assignment of an execu-*  
 24       *tory contract or unexpired lease does not affect the validity*  
 25       *of the assignment to an entity that obtained the assignment*

1 *in good faith, whether or not the entity knew of the pend-*  
 2 *ency of the appeal, unless the authorization and the assign-*  
 3 *ment were stayed pending appeal.”.*

4 ***SEC. 206. PROTECTION OF SECURITY INTEREST IN POST-PE-***  
 5 ***TITION RENTS.***

6 *POSTPETITION EFFECT OF SECURITY INTEREST.—*  
 7 *Section 552(b) of title 11, United States Code, is amend-*  
 8 *ed—*

9 *(1) by inserting “(1)” after “(b)”;*

10 *(2) by striking “rents,” each place it appears;*  
 11 *and*

12 *(3) by adding at the end the following new para-*  
 13 *graph:*

14 *“(2)(A) Except as provided in sections 363, 506(c),*  
 15 *522, 544, 545, 547, and 548, if—*

16 *“(i) the debtor and an entity entered into a secu-*  
 17 *rity agreement that was duly recorded in the public*  
 18 *records before the commencement of the case; and*

19 *“(ii) the security interest created by the security*  
 20 *agreement extends to—*

21 *“(I) property of the debtor acquired before*  
 22 *the commencement of the case; and*

23 *“(II)(aa) to amounts paid as rents of such*  
 24 *property; or*

1           “(bb) to amounts paid for the use or occu-  
 2           pancy of such property (including fees, charges,  
 3           accounts, or other payments for the use or occu-  
 4           pancy of rooms and other public facilities in a  
 5           property such as a hotel, motel, or other lodging),  
 6           the security interest extends to such amounts paid to the  
 7           estate as rents or as fees, charges, accounts, or other pay-  
 8           ments after the commencement of the case to the extent pro-  
 9           vided in the security agreement, whether or not the security  
 10          interest in such rents or such fees, charges, accounts, or  
 11          other payments is perfected under applicable  
 12          nonbankruptcy law, except to the extent that the court, after  
 13          notice and a hearing and based on the equities of the case,  
 14          orders otherwise.

15          “(B) If a security interest extends under subparagraph  
 16          (A) to rents acquired by the estate after the commencement  
 17          of the case, the security interest in such rents shall be  
 18          deemed to be perfected for the purpose of section 544(a).”.

19          (b) *USE SALE, OR LEASE OF PROPERTY.*—Section  
 20          363(a) of title 11, United States Code, is amended by insert-  
 21          ing: “and the fees, charges, accounts or other payments for  
 22          the use or occupancy of rooms and other public facilities  
 23          in hotels, motels, or other lodging properties” after “prop-  
 24          erty”.



1 **SEC. 207. ANTI-ALIENATION.**

2 (a) *AUTOMATIC STAY.*—Section 362(b) of title 11,  
3 *United States Code*, as amended by section 501(a), is  
4 amended—

5 (1) by striking “or” at the end of paragraph  
6 (16);

7 (2) by striking the period at the end of para-  
8 graph (17) and inserting “; or”; and

9 (3) by adding at the end the following new para-  
10 graph:

11 “(18) under subsection (a), of withholding of in-  
12 come from a debtor’s wages and collection of amounts  
13 withheld, pursuant to the debtor’s agreement authoriz-  
14 ing such withholding and collection for the benefit of  
15 a pension, profit sharing, stock bonus, or other plan  
16 qualified under section 401 (a) or (b), 403(b), or of  
17 the *Internal Revenue Code of 1986*, which is spon-  
18 sored by the employer of the debtor, or an affiliate,  
19 successor or predecessor of such employer, to the extent  
20 that the amounts withheld and collected are used sole-  
21 ly for payments relating to a loan from the plan that  
22 satisfies the requirements of section 408(b)(1) or of the  
23 *Employee Retirement Income Security Act of 1974*  
24 (29 U.S.C. 1108(b)(1)) or section 4975(d)(1) of the  
25 *Internal Revenue Code of 1986* or, in the case of a  
26 loan from the *Thrift Savings Plan* described in sub-

1       *chapter III of chapter 84 of title 5, United States*  
2       *Code, that satisfies the requirements of section 8433(i)*  
3       *of that title.”.*

4       **(b) EXCEPTIONS TO DISCHARGE.**—*Subsection 523(a)*  
5       *of title 11, United States Code, is amended—*

6               *(1) by striking “or” at the end of paragraph*  
7               *(11);*

8               *(2) by striking the period at the end of para-*  
9               *graph (12) and inserting “; or”; and*

10              *(3) by adding at the end the following new para-*  
11              *graph:*

12              *“(13) owed to a pension, profitsharing, stock*  
13              *bonus, or other plan qualified under section 401(a),*  
14              *403 (a) or (b), or 408(k) or a governmental plan*  
15              *under 414(d) or 457 of the Internal Revenue Code of*  
16              *1986 pursuant to a loan permitted under section*  
17              *408(b)(1) of the Employee Retirement Income Secu-*  
18              *rity Act of 1974 (29 U.S.C. 1108(b)(1)) or section*  
19              *4975(d)(1) of the Internal Revenue Code 1986 or pur-*  
20              *suant to a loan from the Thrift Savings Plan de-*  
21              *scribed in subchapter III of title 5, United States*  
22              *Code, that satisfies the requirements of section 8433(i)*  
23              *of that title.”.*

1       (c) *PROPERTY OF THE ESTATE.*—Subsection 541(c) of  
 2   title 11, United States Code, is amended by adding at the  
 3   end the following new paragraph:

4           “(3)(A) Subject to subparagraph (B), assets and  
 5   benefits accumulated for the benefits of a debtor pur-  
 6   suant to a pension, profitsharing, stock bonus, or  
 7   other plan qualified under section 401(a), 403(a),  
 8   403(b), or 408(k) of the Internal Revenue Code of  
 9   1986 and any rights of debtor to such assets or bene-  
 10   fits shall be excluded from the property of the estate.

11          “(B) Subparagraph (A) does not apply to plan  
 12   assets or benefits attributable to contributions of the  
 13   debtor to the extent that such contributions were in  
 14   excess of the applicable limits on such contributions  
 15   under section 401(k), 401(m), or 415 of the Internal  
 16   Revenue Code of 1986.”.

17       (d) *PLAN CONTENTS.*—Section 1322 of title 11, United  
 18   States Code, is amended by adding at the end the following  
 19   new subsection:

20          “(d) The plan may not materially alter the terms of  
 21   a loan described in section 362(b)(18).”.

22       (e) *PLAN CONFIRMATION.*—Section 1325 of title 11,  
 23   United States Code, is amended—

24          (1) in subsection (b)(2) by striking “debtor and”  
 25   and inserting “debtor (not including income that is

1        *withheld from the debtor's wages for the purposes stat-*  
 2        *ed in section 362(b)(18)) and"; and*

3                *(2) in subsection (c) by striking "income to" and*  
 4        *inserting "income (except income that is withheld*  
 5        *from a debtor's wages for the purposes stated in sec-*  
 6        *tion 362(b)(18) after confirmation of a plan) to".*

7        **SEC. 208. EXEMPTION.**

8        *Section 109(b)(2) of title 11, United States Code, is*  
 9        *amended by inserting after "homestead association," the fol-*  
 10       *lowing: "a small business investment company licensed by*  
 11       *the Small Business Administration under section 301 (c)*  
 12       *or (d) of the Small Business Investment Act of 1958 (15*  
 13       *U.S.C. 681 (c) and (d)),."*

14       **SEC. 209. INDENTURE TRUSTEE COMPENSATION.**

15       *Section 503(b) of title 11, United States Code, is*  
 16       *amended—*

17                *(1) in paragraph (3)—*

18                        *(A) by redesignating subparagraphs (D)*  
 19                        *and (E) as subparagraphs (E) and (F), respec-*  
 20                        *tively;*

21                        *(B) by inserting after subparagraph (C) the*  
 22                        *following new subparagraph;*

23                        *"(D) an indenture trustee;"; and*

1           (C) in subparagraph (E), as redesignated  
 2           by subparagraph (A), by striking “an indenture  
 3           trustee,”; and

4           (2) in paragraph (5) by striking “for services  
 5           rendered by an indenture trustee in making a sub-  
 6           stantial contribution” and inserting “for reasonable  
 7           and necessary services rendered by an indenture  
 8           trustee”.

9   **SEC. 210. PAYMENT OF TAXES WITH BORROWED FUNDS.**

10       Section 523(a) of title 11, United States Code, is  
 11       amended—

12           (1) by striking “or” at the end of paragraph  
 13           (11);

14           (2) by adding “or” at the end of paragraph (12);  
 15       and

16           (3) by adding at the end the following new para-  
 17       graph:

18           “(13) incurred to pay a tax or customs duty that  
 19       would be nondischargeable pursuant to paragraph  
 20       (1).”.

21   **SEC. 211. RETURN OF GOODS.**

22       (a) *LIMITATION ON AVOIDING POWERS.*—Section 546  
 23       of title 11, United States Code, is amended by adding at  
 24       the end the following new subsection:

1       “(h) Notwithstanding the rights and powers of a trust-  
 2       ee under sections 544(a), 545, 547, 549, and 553, if the  
 3       court determines, after notice and a hearing, that a return  
 4       is in the best interests of the estate, the debtor, with the  
 5       consent of a creditor, may return goods shipped to the debt-  
 6       or by the creditor before the commencement of the case, and  
 7       the creditor may offset the purchase price of such goods  
 8       against any claim of the creditor against the debtor that  
 9       arose before the commencement of the case.”.

10       (b) *SETOFF*.—Section 553(b)(1) is amended by insert-  
 11       ing “546(h),” after “365(h)(2),”.

12       **SEC. 212. EXCEPTION TO DISCHARGE.**

13       Section 523(a)(2) of title 11, United States Code, is  
 14       amended by striking “forty” and inserting “60”.

15       **SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.**

16       Section 541(b) of title 11, United States Code, is  
 17       amended—

18               (1) by striking “or” at the end of paragraph (2);

19               (2) by striking the period at the end of para-  
 20       graph (3) and inserting “; or”; and

21               (3) by adding at the end the following new para-  
 22       graph:

23               “(4) any interest in cash or cash equivalents that  
 24       constitute proceeds of a sale by the debtor of a money  
 25       order that is made—

1           “(A) on or after the date that is 14 days  
2           prior to the date on which the petition is filed;  
3           and

4           “(B) under an agreement with a money  
5           order issuer that prohibits the commingling of  
6           such proceeds with property of the debtor (not-  
7           withstanding that, contrary to the agreement, the  
8           proceeds may have been commingled with prop-  
9           erty of the debtor),  
10          unless the money order issuer had not taken action,  
11          prior to the filing of the petition, to require compli-  
12          ance with the prohibition.”.

13 **SEC. 214. LIMITATION ON LIABILITY OF NONINSIDER**  
14 **TRANSFeree FOR AVOIDED TRANSFER.**

15          Section 550 of title 11, United States Code, is amend-  
16 ed—

17           (1) by redesignating subsections (b), (c), (d), and  
18           (e) as subsections (c), (d), (e), and (f), respectively;  
19           and

20           (2) by inserting after subsection (a) the following  
21           new subsection:

22           “(b) The trustee may recover under subsection (a) a  
23           transfer avoided under section 547(b) from a first transferee  
24           or an immediate or mediate transferee of a first transferee  
25           only to the extent that—

1           “(1) all the elements of section 547(b) are satis-  
2           fied as to the first transferee; and

3           “(2) the exceptions in section 547(c) do not pro-  
4           tect the first transferee.”.

5   **SEC. 215. PERFECTION OF PURCHASE-MONEY SECURITY IN-**  
6                           **TEREST.**

7           Section 547 of title 11, United States Code, is amended  
8   in subsection (c)(3)(B) and subsection (e)(2) by striking  
9   “10” and inserting “20”.

10   **SEC. 216. AIRPORT GATE LEASES.**

11          Section 365(d) of title 11, United States Code, is  
12   amended by adding at the end the following new paragraph:

13          “(5)(A) Notwithstanding paragraphs (1), (2), and (4),  
14   and subject to subparagraphs (B) and (C) of this para-  
15   graph, if the trustee in a case under any chapter of this  
16   title does not assume or reject an unexpired lease or execu-  
17   tory contract with an airport operator under which the  
18   debtor has a right to the use or possession of an airport  
19   terminal, aircraft gate, or related facility within 60 days  
20   after the date of the order for relief, or within such addi-  
21   tional time (not to exceed 120 additional days) as the court  
22   sets during such 60-day period, such lease or executory con-  
23   tract is deemed rejected, and the trustee shall immediately  
24   surrender the airport terminal, gate, or related facility to  
25   the airport operator.



1       “(B)(i) The court may enter an order extending be-  
2 yond 180 days after the date of the order for relief the time  
3 for assumption or rejection of an unexpired lease or execu-  
4 tory contract described in subparagraph (A) only after find-  
5 ing that such an extension of time does not cause substan-  
6 tial harm to the airport operator or to airline passengers.

7       “(ii) In making the determination of substantial  
8 harm, the court shall consider, among other relevant fac-  
9 tors—

10           “(I) the level of use of airport terminals, gates,  
11 or related facilities subject to the unexpired lease or  
12 executory contract;

13           “(II) the existence of competing demands for the  
14 use of the airport terminals, gates, or related facili-  
15 ties;

16           “(III) the size and complexity of the case; and

17           “(IV) air carrier competition at the airport.

18       “(iii) The burden of proof for establishing cause for  
19 an extension of time under this subparagraph shall be on  
20 the trustee.

21       “(iv) An order entered under this subparagraph shall  
22 be without prejudice to the right of a party in interest to  
23 request, at any time, a shortening or termination of the ex-  
24 tension of time granted under this subparagraph.”.

1 **SEC. 217. TRUSTEE DUTIES.**

2 *Section 586(a)(3)(A) of title 28, United States Code,*  
3 *is amended to read as follows:*

4 *“(A)(i) reviewing, in accordance with proce-*  
5 *dural and substantive guidelines adopted by the*  
6 *Executive Office of the United States Trustee*  
7 *(which guidelines shall be applied uniformly by*  
8 *the United States trustee except when cir-*  
9 *cumstances warrant different treatment), appli-*  
10 *cations filed for compensation and reimburse-*  
11 *ment under section 330 of title 11; and*

12 *“(ii) filing with the court comments with*  
13 *respect to each such an application and, if the*  
14 *United States Trustee considers it to be appro-*  
15 *priate, objections to such application.”.*

16 **SEC. 218. PAYMENTS.**

17 *Section 1326(a)(2) of title 11, United States Code, is*  
18 *amended in the second sentence by striking the period and*  
19 *inserting “as soon as practicable.”.*

20 **SEC. 219. CONTINUED PERFECTION.**

21 *(a) AUTOMATIC STAY.—Section 362(b)(3) of title 11,*  
22 *United States Code, is amended by inserting “, or to main-*  
23 *tain or continue the perfection of,” after “to perfect”.*

24 *(b) LIMITATIONS ON AVOIDING POWERS.—Section*  
25 *546(b) of title 11, United States Code, is amended to read*  
26 *as follows:*

1       “(b)(1) *The rights and powers of a trustee under sec-*  
2       *tions 544, 545, and 549 of this title are subject to any gen-*  
3       *erally applicable law that—*

4               “(A) *permits perfection of an interest in prop-*  
5       *erty to be effective against an entity that acquires*  
6       *rights in the property before the date of perfection; or*

7               “(B) *provides for the maintenance or continu-*  
8       *ation of perfection of an interest in property to be ef-*  
9       *fective against an entity that acquires rights in the*  
10       *property before the date on which action is taken to*  
11       *effect such maintenance or continuation.*

12       “(2) *If—*

13               “(A) *a law described in paragraph (1) requires*  
14       *seizure of property that is subject to a perfected inter-*  
15       *est or commencement of an action to accomplish per-*  
16       *fection or maintenance or continuation of an interest*  
17       *in property; and*

18               “(B) *the property has not been seized or an ac-*  
19       *tion has not been commenced before the date of the fil-*  
20       *ing of the petition,*

21       *the interest in such property shall be perfected, or perfection*  
22       *of such interest shall be maintained or continued, by notice*  
23       *within the time fixed by that law for the seizure of property*  
24       *or commencement of an action.”.*

1 **SEC. 220. PAYMENT OF INSURANCE BENEFITS TO RETIRED**  
2 **EMPLOYEES.**

3 *Section 1114(e) of title 11, United States Code, is*  
4 *amended by adding at the end the following new paragraph:*

5 *“(3) Notwithstanding any other provision of this*  
6 *title, if there are not sufficient unencumbered assets*  
7 *available to make a timely payment required by*  
8 *paragraph (1), an order approving the use, sale, or*  
9 *lease of cash collateral or the obtaining of credit or*  
10 *incurring of debt shall require the debtor to use such*  
11 *cash collateral, credit, or incurring of debt to make*  
12 *the payment.”.*

13 **SEC. 221. NOTICES TO CREDITORS.**

14 *Section 342 of title 11, United States Code, is amended*  
15 *by adding at the end the following new subsection:*

16 *“(c) If notice is required to be given by the debtor to*  
17 *a creditor under this title, any rule, any applicable law,*  
18 *or any order of the court, such notice shall contain the name*  
19 *and address of the debtor and the account number, if any,*  
20 *of the debt owed to the creditor if the account number is*  
21 *known to or reasonably ascertainable by the debtor.”.*

**TITLE III—CONSUMER  
BANKRUPTCY ISSUES**

**SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO  
PRINCIPAL RESIDENCE.**

*Section 1322 of title 11, United States Code, as amended by section 207(d), is amended—*

*(1) by redesignating subsections (c) and (d) as subsections (d) and (e); and*

*(2) by inserting after subsection (b) the following new subsection:*

*“(c) Notwithstanding State law and subsection (b)(2), and whether or not a claim is matured or reduced to judgment, a debtor who at the time of filing a petition under this title possesses any legal or equitable interest, including a right of redemption, in real property securing a claim—*

*“(1) may cure a default and maintain payments on the claim pursuant to subsection (b) (3) or (5); or*

*“(2) in a case in which the last payment on the original payment schedule for the claim is due before the date on which the final payment under the plan is due, may provide for the payment of the claim pursuant to section 1325(a)(5).”.*

1 **SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAP-**  
 2 **TER 13.**

3 *Section 1328(a)(3) of title 11, United States Code, is*  
 4 *amended by inserting “, or a fine to the extent such fine*  
 5 *exceeds \$500, ” after “restitution”.*

6 **SEC. 303. PROTECTION OF CHILD SUPPORT AND ALIMONY.**

7 *(a) RELIEF FROM AUTOMATIC STAY.—Section*  
 8 *362(b)(2) of title 11, United States Code, is amended to*  
 9 *read as follows:*

10 *“(2) under subsection (a) of this section—*

11 *“(A) of the commencement or continuation*  
 12 *of an action or proceeding for—*

13 *“(i) the establishment of paternity; or*

14 *“(ii) the establishment or modification*  
 15 *of an order for alimony, maintenance, or*  
 16 *support; or*

17 *“(B) of the collection of alimony, mainte-*  
 18 *nance, or support from property that is not*  
 19 *property of the estate;”.*

20 *(b) PRIORITY OF CLAIMS.—*

21 *(1) ALIMONY OR SUPPORT.—Section 507(a) of*  
 22 *title 11, United States Code, is amended—*

23 *(A) in paragraph (8) by striking “(8)*  
 24 *Eighth” and inserting “(9) Ninth”;*

25 *(B) in paragraph (7) by striking “(7) Sev-*  
 26 *enth” and inserting “(8) Eighth”; and*

1           (C) by inserting after paragraph (6) the fol-  
 2           lowing new paragraph:

3           “(7) Eighth, allowed claims for debts to a spouse,  
 4           former spouse, or child of the debtor, for alimony to,  
 5           maintenance for, or support of such spouse or child,  
 6           in connection with a separation agreement, divorce  
 7           decree or other order of a court of record, determina-  
 8           tion made in accordance with State or territorial law  
 9           by a governmental unit, or property settlement agree-  
 10          ment, but not to the extent that such debt—

11           “(A) is assigned to another entity, volun-  
 12          tarily, by operation of law, or otherwise; or

13           “(B) includes a liability designated as ali-  
 14          mony, maintenance, or support, unless such li-  
 15          ability is actually in the nature of alimony,  
 16          maintenance or support.”.

17          (2) TECHNICAL AMENDMENTS.—Title 11, United  
 18          States Code, is amended—

19           (A) in section 502(i) by striking  
 20          “507(a)(7)” and inserting “507(a)(8)”;

21           (B) in section 503(b)(1)(B)(i) by striking  
 22          “507(a)(7)” and inserting “507(a)(8)”;

23           (C) in section 523(a)(1)(A) by striking  
 24          “507(a)(7)” and inserting “507(a)(8)”;

1           (D) in section 724(b)(2) by striking “or  
2           507(a)(6)” and inserting “507(a)(6), or  
3           507(a)(7)”;

4           (E) in section 726(b) by striking “or (7)”  
5           and inserting “, (7), or (8)”;

6           (F) in section 1123(a)(1) by striking  
7           “507(a)(7)” and inserting “507(a)(8)”; and

8           (G) in section 1129(a)(9)—

9                 (i) in subparagraph (B) by striking  
10                “or 507(a)(6)” and inserting “, 507(a)(6),  
11                or 507(a)(7)”; and

12               (ii) in subparagraph (C) by striking  
13                “507(a)(7)” and inserting “507(a)(8)”.

14       (c) *PROTECTION OF LIENS.*—Section 522(f)(1) of title  
15       11, *United States Code*, is amended to read as follows:

16               “(1) a judicial lien (other than a judicial lien  
17                that secures a debt to a spouse, former spouse, or child  
18                of the debtor, for alimony to, maintenance for, or sup-  
19                port of the spouse or child, in connection with a sepa-  
20                ration agreement, divorce decree or other order of a  
21                court of record, determination made in accordance  
22                with State or territorial law by a governmental unit,  
23                or property settlement agreement, to the extent that  
24                the debt—



1           “(A) is not assigned to another entity, vol-  
2           untarily, by operation of law, or otherwise; and

3           “(B) includes a liability designated as ali-  
4           mony, maintenance, or support, unless such li-  
5           ability is actually in the nature of alimony,  
6           maintenance or support).”.

7           (d) *PROTECTION AGAINST TRUSTEE AVOIDANCE.*—  
8           Section 547(c) of title 11, United States Code, is amended—

9                   (1) by striking “or” at the end of paragraph  
10                  (6);

11                  (2) by redesignating paragraph (7) as para-  
12                  graph (8); and

13                  (3) by inserting after paragraph (6) the fol-  
14                  lowing new paragraph:

15                  “(7) to the extent that the transfer was a bona  
16                  fide payment of a debt to a spouse, former spouse, or  
17                  child of the debtor, for alimony to, maintenance for,  
18                  or support of such spouse or child, in connection with  
19                  a separation agreement, divorce decree or other order  
20                  of a court of record, determination made in accord-  
21                  ance with State or territorial law by a governmental  
22                  unit, or property settlement agreement, but not to the  
23                  extent that such debt—

24                   “(A) is assigned to another entity, volun-  
25                  tarily, by operation of law, or otherwise; or

1           “(B) includes a liability designated as ali-  
 2           mony, maintenance, or support, unless such li-  
 3           ability is actually in the nature of alimony,  
 4           maintenance or support; or”.

5           (e) *APPEARANCE BEFORE COURT.*—A child support  
 6 creditor or its representative shall be permitted to appear  
 7 and intervene without charge and without meeting any spe-  
 8 cial local court rule requirement for attorney appearances  
 9 in any bankruptcy proceeding in any bankruptcy court or  
 10 district court of the United States if the creditor or rep-  
 11 resentative files with the court a statement describing in  
 12 detail the child support debt, its status, and other character-  
 13 istics.

14 **SEC. 304. BANKRUPTCY PETITION PREPARERS.**

15           (a) *AMENDMENT OF CHAPTER 1.*—

16           (1) *IN GENERAL.*—Chapter 1 of title 11, United  
 17 States Code, is amended by adding at the end the fol-  
 18 lowing new section:

19 **“SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**  
 20 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**  
 21 **TITIONS.**

22           “(a) *DEFINITION.*—In this section—

23           “ ‘bankruptcy petition preparer’ means a person,  
 24 other than an attorney or an employee of an attorney,  
 25 who prepares for compensation a document for filing.

1           “‘document for filing’ means a petition or any  
2       other document prepared for filing by a debtor in a  
3       United States bankruptcy court or a United States  
4       district court in connection with a case under this  
5       title.

6           “(b) *SIGNING OF DOCUMENTS.*—(1) A bankruptcy pe-  
7       tition preparer who prepares a document for filing shall  
8       sign the document and print on the document the preparer’s  
9       name and address.

10          “(2) A bankruptcy petition preparer who fails to com-  
11       ply with paragraph (1) may be fined not more than \$500  
12       for each such failure unless the failure is due to reasonable  
13       cause.

14          “(c) *FURNISHING OF IDENTIFYING NUMBER.*—(1) A  
15       bankruptcy petition preparer who prepares a document for  
16       filing shall place on the document, after the preparer’s sig-  
17       nature, an identifying number that identifies the individ-  
18       uals who prepared the document.

19          “(2) For purposes of this section, the identifying num-  
20       ber of a bankruptcy petition preparer shall be the Social  
21       Security account number of each individual who prepared  
22       the document or assisted in its preparation.

23          “(3) A bankruptcy petition preparer who fails to com-  
24       ply with paragraph (1) may be fined not more than \$500

1 *for each such failure unless the failure is due to reasonable*  
2 *cause.*

3       “(d) *FURNISHING OF COPY TO THE DEBTOR.*—(1) *A*  
4 *bankruptcy petition preparer shall, not later than the time*  
5 *at which a document for filing is presented for the debtor’s*  
6 *signature, furnish to the debtor a copy of the document.*

7       “(2) *A bankruptcy petition preparer who fails to com-*  
8 *ply with paragraph (1) may be fined not more than \$500*  
9 *for each such failure unless the failure is due to reasonable*  
10 *cause.*

11       “(e) *NO AUTHORIZATION TO EXECUTE DOCUMENTS.*—  
12 *(1) A bankruptcy petition preparer shall not execute any*  
13 *document on behalf of a debtor.*

14       “(2) *A bankruptcy petition preparer may be fined not*  
15 *more than \$500 for each document executed in violation*  
16 *of paragraph (1).*

17       “(f) *ADVERTISING.*—(1) *A bankruptcy petition pre-*  
18 *parer shall not use the word “legal” or any similar term*  
19 *in any advertisements, or advertise under any category that*  
20 *includes the word “legal” or any similar term.*

21       “(2) *A bankruptcy petition preparer shall be fined not*  
22 *more than \$500 for each violation of paragraph (1).*

23       “(g) *COURT FEES.*—(1) *A bankruptcy petition pre-*  
24 *parer shall not collect or receive any payment from the debt-*

1 *or or on behalf of the debtor for the court fees in connection*  
2 *with filing the petition.*

3 *“(2) A bankruptcy petition preparer shall be fined not*  
4 *more than \$500 for each violation of paragraph (1).*

5 *“(h) FEES FOR SERVICES.—(1) Within 10 days after*  
6 *the date of the filing of a petition, a bankruptcy petition*  
7 *preparer shall file a declaration under penalty of perjury*  
8 *disclosing any fee received from or on behalf of the debtor*  
9 *within 12 months immediately prior to the filing of the*  
10 *case, and any unpaid fee charged to the debtor.*

11 *“(2) The court shall disallow and order the immediate*  
12 *turnover to the bankruptcy trustee of any fee referred to*  
13 *in paragraph (1) found to be in excess of the value of typing*  
14 *services for the documents prepared. The debtor may exempt*  
15 *any funds so recovered under section 522(b).*

16 *“(3) The debtor, the trustee, a creditor, or the United*  
17 *States trustee may file a motion for an order under para-*  
18 *graph (2).*

19 *“(4) A bankruptcy petition preparer shall be fined not*  
20 *more than \$500 for each failure to comply with a court*  
21 *order to turn over funds within 30 days of service of such*  
22 *order.*

23 *“(i) DAMAGES.—(1) If a bankruptcy case or related*  
24 *proceeding is dismissed because of the failure to file bank-*  
25 *ruptcy forms, the negligence or intentional disregard of this*

1 *title or the bankruptcy rules by a bankruptcy petition pre-*  
 2 *parer, or if a bankruptcy petition preparer violates this sec-*  
 3 *tion or commits any fraudulent, unfair, or deceptive act,*  
 4 *the bankruptcy court shall certify that fact to the district*  
 5 *court, and the district court, on motion of the debtor, the*  
 6 *trustee, or a creditor and after a hearing, shall order the*  
 7 *bankruptcy petition preparer to pay to the debtor—*

8           “(A) *the debtor’s actual damages;*

9           “(B) *the greater of—*

10               “(i) *\$2,000; or*

11               “(ii) *twice the amount paid by the debtor to*  
 12 *the bankruptcy petition preparer for the prepar-*  
 13 *er’s services; and*

14           “(C) *reasonable attorneys’ fees and costs in mov-*  
 15 *ing for damages under this subsection.*

16           “(2) *If the trustee or creditor moves for damages on*  
 17 *behalf of the debtor under this subsection, the bankruptcy*  
 18 *petition preparer shall be ordered to pay the movant the*  
 19 *additional amount of \$1,000 plus reasonable attorneys’ fees*  
 20 *and costs incurred.*

21           “(j) *INJUNCTIVE RELIEF.—*

22           “(1) *IN GENERAL.—A debtor for whom a bank-*  
 23 *ruptcy petition preparer has prepared a document for*  
 24 *filing, the trustee, a creditor, or the United States*  
 25 *trustee in the district in which the bankruptcy peti-*

tion preparer resides, has conducted business, or the United States trustee in any other district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

“(2) CONDUCT.—(A) In an action under paragraph (1), if the court finds that—

“(i) a bankruptcy petition preparer has—

“(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

“(II) misrepresented the preparer’s experience or education as a bankruptcy petition preparer; or

“(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

“(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

“(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in clause (i) (I), (II), or (III) and that an in-

1     *junction prohibiting such conduct would not be suffi-*  
 2     *cient to prevent such person's interference with the*  
 3     *proper administration of this title, or has not paid a*  
 4     *penalty imposed under this section, the court may en-*  
 5     *join the person from acting as a bankruptcy petition*  
 6     *preparer.*

7             “(3) *ATTORNEY'S FEE.*—*The court shall award*  
 8     *to a debtor, trustee, or creditor that brings a success-*  
 9     *ful action under this subsection reasonable attorney's*  
 10    *fees and costs of the action, to be paid by the bank-*  
 11    *ruptcy petition preparer.*

12           “(k) *UNAUTHORIZED PRACTICE OF LAW.*—*Nothing in*  
 13    *this section shall be construed to permit activities that are*  
 14    *otherwise prohibited by law, including rules and laws that*  
 15    *prohibit the unauthorized practice of law.”.*

16           (2) *TECHNICAL AMENDMENT.*—*The chapter anal-*  
 17    *ysis for chapter 1 of title 11, United States Code, is*  
 18    *amended by adding at the end the following new item:*

*“110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.”.*

19           (b) *AMENDMENT OF TITLE 18, UNITED STATES*  
 20    *CODE.*—

21           (1) *OFFENSES.*—*Chapter 9 of title 18, United*  
 22    *States Code, is amended—*

23                   (A) *by amending sections 152, 153, and 154*  
 24                   *to read as follows:*



1   **“§ 152. Concealment of assets; false oaths and claims;**  
2                   **bribery**

3           “A person who—

4               “(1) knowingly and fraudulently conceals from a  
5               custodian, trustee, marshal, or other officer of the  
6               court charged with the control or custody of property,  
7               or, in connection with a case under title 11, from  
8               creditors or the United States Trustee, any property  
9               belonging to the estate of a debtor;

10              “(2) knowingly and fraudulently makes a false  
11              oath or account in or in relation to any case under  
12              title 11;

13              “(3) knowingly and fraudulently makes a false  
14              declaration, certificate, verification, or statement  
15              under penalty of perjury as permitted under section  
16              1746 of title 28, in or in relation to any case under  
17              title 11;

18              “(4) knowingly and fraudulently presents any  
19              false claim for proof against the estate of a debtor, or  
20              uses any such claim in any case under title 11, in  
21              a personal capacity or as or through an agent, proxy,  
22              or attorney;

23              “(5) knowingly and fraudulently receives any  
24              material amount of property from a debtor after the  
25              filing of a case under title 11, with intent to defeat  
26              the provisions of title 11;

1           “(6) knowingly and fraudulently gives, offers, re-  
2           ceives, or attempts to obtain any money or property,  
3           remuneration, compensation, reward, advantage, or  
4           promise thereof for acting or forbearing to act in any  
5           case under title 11;

6           “(7) in a personal capacity or as an agent or of-  
7           ficer of any person or corporation, in contemplation  
8           of a case under title 11 by or against the person or  
9           any other person or corporation, or with intent to de-  
10          feat the provisions of title 11, knowingly and fraudu-  
11          lently transfers or conceals any of his property or the  
12          property of such other person or corporation;

13          “(8) after the filing of a case under title 11 or  
14          in contemplation thereof, knowingly and fraudulently  
15          conceals, destroys, mutilates, falsifies, or makes a false  
16          entry in any recorded information (including books,  
17          documents, records, and papers) relating to the prop-  
18          erty or financial affairs of a debtor; or

19          “(9) after the filing of a case under title 11,  
20          knowingly and fraudulently withholds from a custo-  
21          dian, trustee, marshal, or other officer of the court or  
22          a United States Trustee entitled to its possession, any  
23          recorded information (including books, documents,  
24          records, and papers) relating to the property or fi-  
25          nancial affairs of a debtor,

1 *shall be fined not more than \$5,000, imprisoned not more*  
 2 *than 5 years, or both.*

3 ***“§ 153. Embezzlement against estate***

4 *“(a) OFFENSE.—A person described in subsection (b)*  
 5 *who knowingly and fraudulently appropriates to the per-*  
 6 *son’s own use, embezzles, spends, or transfers any property*  
 7 *or secretes or destroys any document belonging to the estate*  
 8 *of a debtor shall be fined not more than \$5,000, imprisoned*  
 9 *not more than 5 years, or both.*

10 *“(b) PERSON TO WHOM SECTION APPLIES.—A person*  
 11 *described in this subsection is one who has access to prop-*  
 12 *erty or documents belonging to an estate by virtue of the*  
 13 *person’s participation in the administration of the estate*  
 14 *as a trustee, custodian, marshal, attorney, or other officer*  
 15 *of the court or as an agent, employee, or other person en-*  
 16 *gaged by such an officer to perform a service with respect*  
 17 *to the estate.*

18 ***“§ 154. Adverse interest and conduct of officers***

19 *“A person who, being a custodian, trustee, marshal,*  
 20 *or other officer of the court—*

21 *“(1) knowingly purchases, directly or indirectly,*  
 22 *any property of the estate of which the person is such*  
 23 *an officer in a case under title 11;*

24 *“(2) knowingly refuses to permit a reasonable*  
 25 *opportunity for the inspection by parties in interest*

1       of the documents and accounts relating to the affairs  
 2       of estates in the person's charge by parties when di-  
 3       rected by the court to do so; or

4               “(3) knowingly refuses to permit a reasonable  
 5       opportunity for the inspection by the United States  
 6       Trustee of the documents and accounts relating to the  
 7       affairs of states in the person's charge,

8       shall be fined not more than \$5000 and shall forfeit the  
 9       person's office, which shall thereupon become vacant.”; and

10               (B) by adding at the end the following new  
 11       section:

12       **“§ 156. Willful disregard of bankruptcy law or rule**

13               “(a) *DEFINITIONS.*—In this section—

14               “‘bankruptcy petition preparer’ means a person,  
 15       other than an attorney or an employee of an attorney,  
 16       who prepares for compensation a document for filing.

17               “‘document for filing’ means a petition or any  
 18       other document prepared for filing by a debtor in a  
 19       United States bankruptcy court or a United States  
 20       district court in connection with a case under this  
 21       title.

22               “(b) *OFFENSE.*—If a bankruptcy case or related pro-  
 23       ceeding is dismissed because of a willful attempt by a bank-  
 24       ruptcy petition preparer in any manner to disregard the  
 25       requirements of title 11, United States Code, or the Bank-

1 *ruptcy Rules, the bankruptcy petition preparer shall be*  
 2 *fined \$5,000.”.*

3 (2) *TECHNICAL AMENDMENTS.—The chapter*  
 4 *analysis for chapter 9 of title 18, United States Code,*  
 5 *is amended—*

6 (A) *by amending the item relating to sec-*  
 7 *tion 153 to read as follows:*

*“Sec. 153. Embezzlement against estate.”;*

8 *and*

9 (B) *by adding at the end the following new*  
 10 *item:*

*“Sec. 156. Willful disregard of bankruptcy law or rule.”.*

11 **SEC. 305. CONVERSION OR DISMISSAL.**

12 *Section 1307 of title 11, United States Code, is amend-*  
 13 *ed by adding at the end the following new subsection:*

14 *“(g) The clerk of the court shall give notice to all credi-*  
 15 *tors not later than 30 days after the entry of an order of*  
 16 *conversion or dismissal.”.*

17 **SEC. 306. CONTENTS OF PLAN.**

18 *Section 1322(b)(2) of title 11, United States Code, is*  
 19 *amended by striking “claims;” and inserting “claims, but*  
 20 *the plan may not modify a claim pursuant to section 506*  
 21 *of a person holding a primary or a junior security interest*  
 22 *in real property or a manufactured home (as defined in*  
 23 *section 603(6) of the National Manufactured Housing Con-*  
 24 *struction and Safety Standards Act of 1974 (42 U.S.C.*

1 5402(6)) that is the debtor's principal residence, except that  
 2 the plan may modify the claim of a person holding such  
 3 a junior security interest that was undersecured at the time  
 4 the interest attached to the extent that the interest remains  
 5 undersecured;".

6 **SEC. 307. STAY OF ACTION AGAINST CODEBTOR.**

7 Section 1301 of title 11, United States Code, is amend-  
 8 ed—

9 (1) in subsection (c)—

10 (A) by striking "or" at the end of para-  
 11 graph (2);

12 (B) by striking the period at the end of  
 13 paragraph (3) and inserting "; or"; and

14 (C) by adding at the end the following new  
 15 paragraph:

16 "(4) the claim is for an amount valued at not  
 17 greater than \$25,000, and such relief is not a substan-  
 18 tial impediment to an effective reorganization by the  
 19 debtor, and unless the codebtor has demonstrated an  
 20 inability to pay such claim or a substantial portion  
 21 of such claim."; and

22 (2) by adding at the end the following new sub-  
 23 section:

24 "(e) If the relief sought by the creditor pursuant to sub-  
 25 section (c)(4) is granted by the court, the codebtor shall by

1 subrogation have the same rights as the creditor, under this  
 2 title, against the debtor to the extent of the amount of relief  
 3 obtained from the codebtor. Pending any delay in obtaining  
 4 relief from the codebtor, after the court order, payment by  
 5 the debtor shall continue to be paid to the creditor, but sub-  
 6 ject to the developing subrogation rights of the codebtor.”.

7 **SEC. 308. EXEMPTION FOR HOUSEHOLD GOODS.**

8 Section 522(a) of title 11, United States Code, is  
 9 amended—

10 (1) by striking “and” at the end of paragraph  
 11 (1) and redesignating that paragraph as paragraph  
 12 (2);

13 (2) by inserting before paragraph (2), as redesign-  
 14 ated by paragraph (1), the following new paragraph:

15 “(1) ‘antique’, for purposes of subsection (d),  
 16 means an item that was more than 100 years old at  
 17 the time it was acquired by the debtor, including such  
 18 an item that has been repaired or renovated without  
 19 changing its original form or character;”;

20 (3) by redesignating paragraph (2), as des-  
 21 ignated prior to the date of enactment of this Act, as  
 22 paragraph (4); and

23 (4) by inserting after paragraph (2), as redesign-  
 24 ated by paragraph (1), the following new paragraph:

1           “(3) ‘household goods’, for purposes of subsection  
 2           (d), means clothing, furniture, appliances, linens,  
 3           china, crockery, kitchenware, and personal effects of  
 4           the debtor and the debtor’s dependents, but does not  
 5           include—

6                       “(A) works of art;

7                       “(B) electronic entertainment equipment  
 8                       (except to the extent of 1 television and 1 radio);

9                       “(C) antiques; and

10                      “(D) jewelry other than wedding rings; and

11   **SEC. 309. PROFESSIONAL FEES.**

12           Section 330(a) of title 11, United States Code, is  
 13   amended to read as follows:

14           “(a)(1) After notice to the parties in interest and the  
 15   United States trustee and a hearing, and subject to sections  
 16   326, 328, and 329, the court may award to a trustee, an  
 17   examiner, a professional person employed under section 327  
 18   or 1103, or the debtor’s attorney, after considering com-  
 19   ments and objections submitted by the United States Trust-  
 20   ee in conformance with guidelines adopted by the Executive  
 21   Office for United States Trustees pursuant to section  
 22   586(a)(3)(A) of title 28—

23                      “(A) reasonable compensation for actual, nec-  
 24                      essary services rendered by the trustee, examiner, pro-



1        *fessional person, or attorney and by any paraprofes-*  
 2        *sional person employed by any such person; and*

3            *“(B) reimbursement for actual, necessary ex-*  
 4        *penses.*

5        *“(2)(A) In determining an amount of reasonable com-*  
 6        *pensation to be awarded under paragraph (1)(A), the*  
 7        *court—*

8            *“(i) may, on its motion or on the motion of the*  
 9        *United States trustee or any party in interest, award*  
 10       *compensation that is less than the amount of com-*  
 11       *pensation that is requested; and*

12           *“(ii) shall consider the nature, the extent, and*  
 13       *the value of such services, taking into account all rel-*  
 14       *evant factors, including—*

15                *“(I) the time spent on such services;*

16                *“(II) the rates charged for such services;*

17                *“(III) whether the services were necessary in*  
 18       *the administration of or beneficial toward the*  
 19       *completion of a case under this title; and*

20                *“(IV) the total value of the estate and the*  
 21       *amount of funds or other property available for*  
 22       *distribution to all creditors both secured and un-*  
 23       *secured.*

24        *“(B) In calculating compensation for services for the*  
 25       *purpose of subparagraph (A)(ii), the court shall consider—*

1           “(i) whether tasks were performed within a rea-  
2           sonable amount of time commensurate with the com-  
3           plexity, importance and nature of the problem, issue  
4           or task addressed; and

5           “(ii) whether the compensation is reasonable  
6           based on the customary compensation charged by  
7           comparably skilled practitioners in nonbankruptcy  
8           cases.

9           “(3)(A) Subject to subparagraph (B), the court shall  
10          not allow compensation for duplication of services or for  
11          services that are not either reasonably likely to benefit the  
12          debtor’s estate or necessary in the administration of the  
13          case.

14          “(B) In a case in which the debtor is an individual,  
15          the court shall allow reasonable compensation for services  
16          by the debtor’s attorney representing the interests of the  
17          debtor without regard to the benefit of such services to the  
18          estate.

19          “(4)(A) The court shall take into account the amount  
20          and timing of interim compensation, if any awarded and  
21          paid, in awarding final compensation.

22          “(B) If interim compensation was awarded and paid  
23          in an amount that exceeds the amount the court awards  
24          as final compensation the court may order the return of  
25          the excess to the trustee or other entity that paid it.

1       “(5) In determining the amount to be awarded for the  
2 preparation of fee applications, the court shall recognize the  
3 difference between the cost of professional services and serv-  
4 ices for the preparation of fee applications. The costs  
5 awarded for the preparation of fee applications shall be rea-  
6 sonable and based on the level of skill required.”.

7       **SEC. 310. INTEREST ON INTEREST.**

8       (a) CHAPTER 11.—Section 1123 of title 11, United  
9 States Code, is amended by adding at the end the following  
10 new subsection:

11       “(d) Notwithstanding subsection (a) of this section and  
12 sections 506(b), 1129(a)(7), and 1129(b) of this title, the  
13 amount necessary to cure a default under a plan, if any,  
14 shall be determined in accordance with the underlying  
15 agreement and applicable nonbankruptcy law.”.

16       (b) CHAPTER 12.—Section 1222 of title 11, United  
17 States Code, is amended by adding at the end the following  
18 new subsection:

19       “(d) Notwithstanding subsection (b)(2) of this section  
20 and sections 506(b) and 1225(a)(5) of this title, the amount  
21 necessary to cure a default under a plan, if any, shall be  
22 determined in accordance with the underlying agreement  
23 and applicable nonbankruptcy law.”.

1       (c) *CHAPTER 13.*—Section 1322 of title 11, United  
 2       States Code, is amended by adding at the end the following  
 3       new subsection:

4       “(f) Notwithstanding subsection (b)(2) of this section  
 5       and sections 506(b) and 1325(a)(5) of this title, the amount  
 6       necessary to cure a default under a plan, if any, shall be  
 7       determined in accordance with the underlying agreement  
 8       and applicable nonbankruptcy law.”.

9       (d) *EFFECTIVE DATE.*—The amendments made by this  
 10      section shall apply to agreements described in sections  
 11      1123(d), 1222(d), and 1322(f) of title 11, United States  
 12      Code, as added by this section, that are entered into after  
 13      the date of enactment of this Act.

## 14      **TITLE IV—BANKRUPTCY REVIEW** 15                                      **COMMISSION**

### 16      **SEC. 401. SHORT TITLE.**

17      This title may be cited as the “National Bankruptcy  
 18      Review Commission Act”.

### 19      **SEC. 402. ESTABLISHMENT.**

20      There is established the National Bankruptcy Review  
 21      Commission (referred to as the “Commission”).

### 22      **SEC. 403. DUTIES OF THE COMMISSION.**

23      The duties of the Commission are—

1           (1) *to investigate and study issues and problems*  
2           *relating to title 11, United States Code (commonly*  
3           *known as the “Bankruptcy Code”);*

4           (2) *to evaluate the advisability of proposals and*  
5           *current arrangements with respect to such issues and*  
6           *problems;*

7           (3) *to prepare and submit to the Congress, the*  
8           *Chief Justice, and the President a report in accord-*  
9           *ance with section 408; and*

10          (4) *to solicit divergent views of all parties con-*  
11          *cerned with the operation of the bankruptcy system.*

12   **SEC. 404. MEMBERSHIP.**

13          (a) *NUMBER AND APPOINTMENT.*—*The Commission*  
14          *shall be composed of 9 members as follows:*

15               (1) *Three members appointed by the President, 1*  
16               *of whom shall be designated as chairman by the*  
17               *President.*

18               (2) *One member shall be appointed by the Presi-*  
19               *dent pro tempore of the Senate.*

20               (3) *One member shall be appointed by the Mi-*  
21               *nority Leader of the Senate.*

22               (4) *One member shall be appointed by the*  
23               *Speaker of the House of Representatives.*

24               (5) *One member shall be appointed by the Mi-*  
25               *nority Leader of the House of Representatives.*

1           (6) *Two members appointed by the Chief Justice.*

2           (b) *TERM.—Members of the Commission shall be ap-*  
3 *pointed for the life of the Commission.*

4           (c) *QUORUM.—Five members of the Commission shall*  
5 *constitute a quorum, but a lesser number may conduct*  
6 *meetings.*

7           (d) *APPOINTMENT DEADLINE.—The first appoint-*  
8 *ments made under subsection (a) shall be made within 60*  
9 *days after the date of enactment of this Act.*

10          (e) *FIRST MEETING.—The first meeting of the Com-*  
11 *mission shall be called by the chairman and shall be held*  
12 *within 90 days after the date of enactment of this Act.*

13          (f) *VACANCY.—A vacancy on the Commission resulting*  
14 *from the death or resignation of a member shall not affect*  
15 *its powers and shall be filled in the same manner in which*  
16 *the original appointment was made.*

17          (g) *CONTINUATION OF MEMBERSHIP.—If any member*  
18 *of the Commission who was appointed to the Commission*  
19 *as a member of Congress or as an officer or employee of*  
20 *a government leaves that office, or if any member of the*  
21 *Commission who was not appointed in such a capacity be-*  
22 *comes an officer or employee of a government, the member*  
23 *may continue as a member of the Commission for not longer*  
24 *than the 90-day period beginning on the date the member*

1 *leaves that office or becomes such an officer or employee,*  
 2 *as the case may be.*

3 *(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior*  
 4 *to the appointment of members of the Commission, the*  
 5 *President, the President pro tempore of the Senate, the*  
 6 *Speaker of the House of Representatives, and the Chief Jus-*  
 7 *tice shall consult with each other to ensure fair and equi-*  
 8 *table representation of various points of view in the Com-*  
 9 *mission and its staff.*

10 **SEC. 405. COMPENSATION OF THE COMMISSION.**

11 *(a) PAY.—*

12 *(1) NONGOVERNMENT EMPLOYEES.—Each mem-*  
 13 *ber of the Commission who is not otherwise employed*  
 14 *by the United States Government shall be entitled to*  
 15 *receive the daily equivalent of the annual rate of basic*  
 16 *pay payable for level IV of the Executive Schedule*  
 17 *under section 5315 of title 5, United States Code, for*  
 18 *each day (including travel time) during which he or*  
 19 *she is engaged in the actual performance of duties as*  
 20 *a member of the Commission.*

21 *(2) GOVERNMENT EMPLOYEES.—A member of the*  
 22 *Commission who is an officer or employee of the*  
 23 *United States Government shall serve without addi-*  
 24 *tional compensation.*

1       (b) *TRAVEL.*—*Members of the Commission shall be re-*  
 2 *imbursed for travel, subsistence, and other necessary ex-*  
 3 *penses incurred by them in the performance of their duties.*

4       **SEC. 406. STAFF OF COMMISSION; EXPERTS AND CONSULT-**  
 5                                   **ANTS.**

6       (a) *STAFF.*—

7               (1) *APPOINTMENT.*—*The chairman of the Com-*  
 8 *mission may, without regard to the civil service laws*  
 9 *and regulations, appoint, and terminate an executive*  
 10 *director and such other personnel as are necessary to*  
 11 *enable the Commission to perform its duties. The em-*  
 12 *ployment of an executive director shall be subject to*  
 13 *confirmation by the Commission.*

14              (2) *COMPENSATION.*—*The chairman of the Com-*  
 15 *mission may fix the compensation of the executive di-*  
 16 *rector and other personnel without regard to the pro-*  
 17 *visions of chapter 51 and subchapter II of chapter 53*  
 18 *of title 5, United States Code, relating to classifica-*  
 19 *tion of positions and General Schedule pay rates, ex-*  
 20 *cept that the rate of pay for the executive director and*  
 21 *other personnel may not exceed the rate payable for*  
 22 *level V of the Executive Schedule under section 5316*  
 23 *of that title.*

24       (b) *EXPERTS AND CONSULTANTS.*—*The Commission*  
 25 *may procure temporary and intermittent services of experts*



1 *and consultants under section 3109(b) of title 5, United*  
2 *States Code.*

3 ***SEC. 407. POWERS OF THE COMMISSION.***

4       *(a) HEARINGS AND MEETINGS.—The Commission or,*  
5 *on authorization of the Commission, a member of the Com-*  
6 *mission, may hold such hearings, sit and act at such time*  
7 *and places, take such testimony, and receive such evidence,*  
8 *as the Commission considers appropriate. The Commission*  
9 *or a member of the Commission may administer oaths or*  
10 *affirmations to witnesses appearing before it.*

11       *(b) OFFICIAL DATA.—The Commission may secure di-*  
12 *rectly from any Federal department, agency, or court infor-*  
13 *mation necessary to enable it to carry out this title. Upon*  
14 *request of the chairman of the Commission, the head of a*  
15 *Federal department or agency or chief judge of a Federal*  
16 *court shall furnish such information, consistent with law,*  
17 *to the Commission.*

18       *(c) FACILITIES AND SUPPORT SERVICES.—The Ad-*  
19 *ministrator of General Services shall provide to the Com-*  
20 *mission on a reimbursable basis such facilities and support*  
21 *services as the Commission may request. Upon request of*  
22 *the Commission, the head of a Federal department or agen-*  
23 *cy may make any of the facilities or services of the agency*  
24 *available to the Commission to assist the Commission in*  
25 *carrying out its duties under this title.*

1       (d) *EXPENDITURES AND CONTRACTS.*—The Commis-  
2       sion or, on authorization of the Commission, a member of  
3       the Commission may make expenditures and enter into con-  
4       tracts for the procurement of such supplies, services, and  
5       property as the Commission or member considers appro-  
6       priate for the purposes of carrying out the duties of the  
7       Commission. Such expenditures and contracts may be made  
8       only to such extent or in such amounts as are provided in  
9       appropriation Acts.

10       (e) *MAILS.*—The Commission may use the United  
11       States mails in the same manner and under the same condi-  
12       tions as other Federal departments and agencies of the  
13       United States.

14       (f) *GIFTS.*—The Commission may accept, use, and dis-  
15       pose of gifts or donations of services or property.

16       **SEC. 408. REPORT.**

17       The Commission shall submit to the Congress, the Chief  
18       Justice, and the President a report not later than 2 years  
19       after the date of its first meeting. The report shall contain  
20       a detailed statement of the findings and conclusions of the  
21       Commission, together with its recommendations for such  
22       legislative or administrative action as it considers appro-  
23       priate.

1 **SEC. 409. TERMINATION.**

2       *The Commission shall cease to exist on the date that*  
 3 *is 30 days after the date on which it submits its report*  
 4 *under section 408.*

5 **SEC. 410. AUTHORIZATION OF APPROPRIATIONS.**

6       *There is authorized to be appropriated \$1,500,000 to*  
 7 *carry out this title.*

8                   **TITLE V—TECHNICAL**  
 9                   **CORRECTIONS**

10 **SEC. 501. TITLE 11, UNITED STATES CODE.**

11       (a) *ALPHABETIZATION AND ELIMINATION OF PARA-*  
 12 *GRAPH DESIGNATIONS.*—*Section 101 of title 11, United*  
 13 *States Code, is amended to read as follows:*

14 **“§ 101. Definitions**

15       *“In this title—*

16               *“‘accountant’ means an accountant authorized*  
 17 *under applicable law to practice public accounting,*  
 18 *and includes professional accounting association, cor-*  
 19 *poration, or partnership, if so authorized.*

20               *“‘affiliate’ means—*

21                   *“(A) an entity that directly or indirectly*  
 22 *owns, controls, or holds with power to vote, 20*  
 23 *percent or more of the outstanding voting securi-*  
 24 *ties of the debtor, other than an entity that holds*  
 25 *such securities—*

1           “(i) in a fiduciary or agency capacity  
2           without sole discretionary power to vote  
3           such securities; or

4           “(ii) solely to secure a debt, if such en-  
5           tity has not in fact exercised such power to  
6           vote;

7           “(B) a corporation 20 percent or more of  
8           whose outstanding voting securities are directly  
9           or indirectly owned, controlled, or held with  
10          power to vote, by the debtor, or by an entity that  
11          directly or indirectly owns, controls, or holds  
12          with power to vote, 20 percent or more of the  
13          outstanding voting securities of the debtor, other  
14          than an entity that holds such securities—

15          “(i) in a fiduciary or agency capacity  
16          without sole discretionary power to vote  
17          such securities; or

18          “(ii) solely to secure a debt, if such en-  
19          tity has not in fact exercised such power to  
20          vote;

21          “(C) a person whose business is operated  
22          under a lease or operating agreement by a debt-  
23          or, or person substantially all of whose property  
24          is operated under an operating agreement with  
25          the debtor; or

1           “(D) an entity that operates the business or  
2           substantially all of the property of the debtor  
3           under a lease or operating agreement.

4           “‘attorney’ means an attorney, professional law  
5           association, corporation, or partnership, authorized  
6           under applicable law to practice law.

7           “‘claim’ means—

8           “(A) a right to payment, whether or not  
9           such right is reduced to judgment, liquidated,  
10          unliquidated, fixed, contingent, matured,  
11          unmatured, disputed, undisputed, legal, equi-  
12          table, secured, or unsecured; or

13          “(B) a right to an equitable remedy for  
14          breach of performance if such breach gives rise to  
15          a right to payment, whether or not such right to  
16          an equitable remedy is reduced to judgment,  
17          fixed, contingent, matured, unmatured, disputed,  
18          undisputed, secured, or unsecured.

19          “‘commodity broker’ means a futures commis-  
20          sion merchant, foreign futures commission merchant,  
21          clearing organization, leverage transaction merchant,  
22          or commodity options dealer (as defined in section  
23          761) with respect to which there is a customer (as de-  
24          fined in section 761).

1           *“‘community claim’ means a claim that arose*  
2           *before the commencement of the case concerning the*  
3           *debtor for which property of the kind specified in sec-*  
4           *tion 541(a)(2) is liable, whether or not there is any*  
5           *such property at the time of the commencement of the*  
6           *case.*

7           *“‘consumer debt’ means debt incurred by an in-*  
8           *dividual primarily for a personal, family, or house-*  
9           *hold purpose.*

10          *“‘corporation’—*

11            *“(A) includes—*

12                *“(i) an association having a power or*  
13                *privilege that a private corporation, but not*  
14                *an individual or a partnership, possesses;*

15                *“(ii) a partnership association orga-*  
16                *nized under a law that makes only the cap-*  
17                *ital subscribed responsible for the debts of*  
18                *such association;*

19                *“(iii) a joint-stock company;*

20                *“(iv) an unincorporated company or*  
21                *association; or*

22                *“(v) a business trust; but*

23                *“(B) does not include a limited partnership.*

24          *“‘creditor’ means—*

1           “(A) an entity that has a claim against the  
2           debtor that arose at the time of or before the  
3           order for relief concerning the debtor;

4           “(B) an entity that has a claim against the  
5           estate of a kind specified in section 348(d),  
6           502(f), 502(g), 502(h), or 502(i); or

7           “(C) an entity that has a community claim.

8           “‘custodian’ means—

9           “(A) a receiver or trustee of any of the  
10          property of the debtor, appointed in a case or  
11          proceeding not under this title;

12          “(B) an assignee under a general assign-  
13          ment for the benefit of the debtor’s creditors; or

14          “(C) a trustee, receiver, or agent under ap-  
15          plicable law, or under a contract, that is ap-  
16          pointed or authorized to take charge of property  
17          of the debtor for the purpose of enforcing a lien  
18          against such property, or for the purpose of gen-  
19          eral administration of such property for the ben-  
20          efit of the debtor’s creditors.

21          “‘debt’ means liability on a claim.

22          “‘debtor’ means a person or municipality con-  
23          cerning which a case under this title has been com-  
24          menced.

25          “‘disinterested person’ means a person that—

1           “(A) is not a creditor, an equity security  
2 holder, or an insider;

3           “(B) is not and was not an investment  
4 banker for any outstanding security of the debt-  
5 or;

6           “(C) has not been, within 3 years before the  
7 date of the filing of the petition, an investment  
8 banker for a security of the debtor, or an attor-  
9 ney for such an investment banker in connection  
10 with the offer, sale, or issuance of a security of  
11 the debtor;

12           “(D) is not and was not, within 2 years be-  
13 fore the date of the filing of the petition, a direc-  
14 tor, officer, or employee of the debtor or of an in-  
15 vestment banker specified in subparagraph (B)  
16 or (C); and

17           “(E) does not have an interest materially  
18 adverse to the interest of the estate or of any  
19 class of creditors or equity security holders, by  
20 reason of any direct or indirect relationship to,  
21 connection with, or interest in, the debtor or an  
22 investment banker specified in subparagraph (B)  
23 or (C), or for any other reason.

24           “‘entity’ includes a person, estate, trust, govern-  
25 mental unit, and United States trustee.



1       “‘equity security’ means—

2               “(A) a share in a corporation, whether or  
3       not transferable or denominated ‘stock’, or simi-  
4       lar security;

5               “(B) an interest of a limited partner in a  
6       limited partnership; or

7               “(C) a warrant or right, other than a right  
8       to convert, to purchase, sell, or subscribe to a  
9       share, security, or interest of a kind specified in  
10      subparagraph (A) or (B).

11      “‘equity security holder’ means a holder of an  
12      equity security of the debtor.

13      “‘family farmer’ means—

14              “(A) an individual or individual and  
15      spouse engaged in a farming operation whose ag-  
16      gregate debts do not exceed \$1,500,000 and not  
17      less than 80 percent of whose aggregate  
18      noncontingent, liquidated debts (excluding a debt  
19      for the principal residence of such individual or  
20      such individual and spouse unless such debt  
21      arises out of a farming operation), on the date  
22      the case is filed, arise out of a farming operation  
23      owned or operated by such individual or such in-  
24      dividual and spouse, and such individual or  
25      such individual and spouse receive from such

1        *farming operation more than 50 percent of such*  
2        *individual's or such individual and spouse's*  
3        *gross income for the taxable year preceding the*  
4        *taxable year in which the case concerning such*  
5        *individual or such individual and spouse was*  
6        *filed; or*

7                *“(B) a corporation or partnership in which*  
8        *more than 50 percent of the outstanding stock or*  
9        *equity is held by one family, or by one family*  
10       *and the relatives of the members of such family,*  
11       *and such family or such relatives conduct the*  
12       *farming operation—*

13                *“(i) more than 80 percent of the value*  
14       *of its assets consists of assets related to the*  
15       *farming operation;*

16                *“(ii) its aggregate debts do not exceed*  
17       *\$1,500,000 and not less than 80 percent of*  
18       *its aggregate noncontingent, liquidated*  
19       *debts (excluding a debt for one dwelling*  
20       *which is owned by such corporation or part-*  
21       *nership and which a shareholder or partner*  
22       *maintains as a principal residence, unless*  
23       *such debt arises out of a farming oper-*  
24       *ation), on the date the case is filed, arise*  
25       *out of the farming operation owned or oper-*

1           *ated by such corporation or such partner-*  
2           *ship; and*

3           *“(iii) if such corporation issues stock,*  
4           *such stock is not publicly traded.*

5           *“‘family farmer with regular annual income’*  
6           *means a family farmer whose annual income is suffi-*  
7           *ciently stable and regular to enable such family farm-*  
8           *er to make payments under a plan under chapter 12.*

9           *“‘farmer’ means (except when such term appears*  
10          *in the term ‘family farmer’) a person that received*  
11          *more than 80 percent of such person’s gross income*  
12          *during the taxable year of such person immediately*  
13          *preceding the taxable year of such person during*  
14          *which the case under this title concerning such person*  
15          *was commenced from a farming operation owned or*  
16          *operated by such person.*

17          *“‘farming operation’ includes farming, tillage of*  
18          *the soil, dairy farming, ranching, production or rais-*  
19          *ing of crops, poultry, or livestock, and production of*  
20          *poultry or livestock products in an unmanufactured*  
21          *state.*

22          *“‘Federal depository institutions regulatory*  
23          *agency’ means—*

24                 *“(A) with respect to an insured depository*  
25                 *institution (as defined in section 3(c)(2) of the*

1       *Federal Deposit Insurance Act (12 U.S.C.*  
2       *1813(c)(2)) for which no conservator or receiver*  
3       *has been appointed, the appropriate Federal*  
4       *banking agency (as defined in section 3(q) of*  
5       *that Act);*

6               “(B) with respect to an insured credit  
7       union (including an insured credit union for  
8       which the National Credit Union Administration  
9       has been appointed conservator or liquidating  
10      agent), the National Credit Union Administra-  
11      tion;

12              “(C) with respect to any insured depository  
13      institution for which the Resolution Trust Cor-  
14      poration has been appointed conservator or re-  
15      ceiver, the Resolution Trust Corporation; and

16              “(D) with respect to any insured depository  
17      institution for which the Federal Deposit Insur-  
18      ance Corporation has been appointed conservator  
19      or receiver, the Federal Deposit Insurance Cor-  
20      poration.

21              “‘financial institution’ means a person that is a  
22      commercial or savings bank, industrial savings bank,  
23      savings and loan association, or trust company and,  
24      when any such person is acting as agent or custodian

1       for a customer in connection with a securities con-  
2       tract (as defined in section 741(a)), the customer.

3               “‘foreign proceeding’ means a proceeding, wheth-  
4       er judicial or administrative and whether or not  
5       under bankruptcy law, in a foreign country in which  
6       the debtor’s domicile, residence, principal place of  
7       business, or principal assets were located at the com-  
8       mencement of such proceeding, for the purpose of liq-  
9       uidating an estate, adjusting debts by composition,  
10      extension, or discharge, or effecting a reorganization.

11              “‘foreign representative’ means a duly selected  
12      trustee, administrator, or other representative of an  
13      estate in a foreign proceeding.

14              “‘forward contract’ means a contract (other than  
15      a commodity contract) for the purchase, sale, or  
16      transfer of a commodity, as defined in section 761, or  
17      any similar good, article, service, right, or interest  
18      which is presently or in the future becomes the subject  
19      of dealing in the forward contract trade, or product  
20      or byproduct thereof, with a maturity date more than  
21      2 days after the date the contract is entered into, in-  
22      cluding, but not limited to, a repurchase transaction,  
23      reverse repurchase transaction, consignment, lease,  
24      swap, hedge transaction, deposit, loan, option, allo-

1        *cated transaction, unallocated transaction, or any*  
2        *combination thereof or option thereon.*

3            “‘forward contract merchant’ means a person  
4        *whose business consists in whole or in part of enter-*  
5        *ing into forward contracts as or with merchants in*  
6        *a commodity (as defined in section 761) or any simi-*  
7        *lar good, article, service, right, or interest which is*  
8        *presently or in the future becomes the subject of deal-*  
9        *ing in the forward contract trade.*

10          “‘governmental unit’ means—

11                “(A) *the United States, a State, Common-*  
12                *wealth, or Territory, the District of Columbia, a*  
13                *municipality, and a foreign state;*

14                “(B) *a department, agency, or instrumen-*  
15                *tality of the United States (but not a United*  
16                *States trustee while serving as a trustee in a case*  
17                *under this title), a State, Commonwealth, or*  
18                *Territory, the District of Columbia, a munici-*  
19                *pality, a foreign state; or*

20                “(C) *any other foreign or domestic govern-*  
21                *ment.*

22                “‘indenture’ means *a mortgage, deed of trust, or*  
23                *indenture, under which there is outstanding a secu-*  
24                *rity, other than a voting-trust certificate, constituting*  
25                *a claim against the debtor, a claim secured by a lien*

1       on any of the debtor's property, or an equity security  
2       of the debtor.

3               “‘indenture trustee’ means a trustee under an  
4       indenture.

5               “‘individual with regular income’ means an in-  
6       dividual whose income is sufficiently stable and regu-  
7       lar to enable such individual to make payments under  
8       a plan under chapter 13, other than a stockbroker or  
9       a commodity broker.

10              “‘insider’ includes—

11                      “(A) if the debtor is an individual—

12                              “(i) a relative of the debtor or of a gen-  
13                              eral partner of the debtor;

14                              “(ii) a partnership in which the debtor  
15                              is a general partner;

16                              “(iii) a general partner of the debtor;  
17                              or

18                              “(iv) a corporation of which the debtor  
19                              is a director, officer, or person in control;

20                      “(B) if the debtor is a corporation—

21                              “(i) a director of the debtor;

22                              “(ii) an officer of the debtor;

23                              “(iii) a person in control of the debtor;

24                              “(iv) a partnership in which the debtor  
25                              is a general partner;

1                   “(v) a general partner of the debtor; or

2                   “(vi) a relative of a general partner,  
3                   director, officer, or person in control of the  
4                   debtor;

5                   “(C) if the debtor is a partnership—

6                   “(i) a general partner in the debtor;

7                   “(ii) a relative of a general partner in,  
8                   general partner of, or person in control of  
9                   the debtor;

10                  “(iii) a partnership in which the debt-  
11                  or is a general partner;

12                  “(iv) a general partner of the debtor;  
13                  or

14                  “(v) a person in control of the debtor;

15                  “(D) if the debtor is a municipality, an  
16                  elected official of the debtor or relative of an  
17                  elected official of the debtor;

18                  “(E) an affiliate, or insider of an affiliate  
19                  as if such affiliate were the debtor; and

20                  “(F) a managing agent of the debtor.

21                  “‘insolvent’ means—

22                  “(A) with reference to an entity other than  
23                  a partnership and a municipality, being in a fi-  
24                  nancial condition such that the sum of the enti-



1        *ty's debts is greater than all of the entity's prop-*  
2        *erty, at a fair valuation, exclusive of—*

3                *“(i) property transferred, concealed, or*  
4                *removed with intent to hinder, delay, or de-*  
5                *fraud such entity's creditors; and*

6                *“(ii) property that may be exempted*  
7                *from property of the estate under section*  
8                *522;*

9                *“(B) with reference to a partnership, being*  
10              *in a financial condition such that the sum of the*  
11              *partnership's debts is greater than the aggregate*  
12              *of, at a fair valuation—*

13              *“(i) all of the partnership's property,*  
14              *exclusive of property of the kind specified in*  
15              *subparagraph (A)(i); and*

16              *“(B) the sum of the excess of the value*  
17              *of each general partner's nonpartnership*  
18              *property, exclusive of property of the kind*  
19              *specified in subparagraph (A), over such*  
20              *partner's nonpartnership debts; and*

21              *“(C) with reference to a municipality, being*  
22              *in a financial condition such that the munici-*  
23              *pality is—*

1                   “(i) generally not paying its debts as  
2                   they become due unless such debts are the  
3                   subject of a bona fide dispute; and

4                   “(ii) unable to pay its debts as they be-  
5                   come due.

6                   “‘institution-affiliated party’—

7                   “(A) with respect to an insured depository  
8                   institution (as defined in section 3(c)(2) of the  
9                   Federal Deposit Insurance Act) (12 U.S.C.  
10                  1813(c)(2)), has the meaning given it in section  
11                  3(u) of the Federal Deposit Insurance Act (12  
12                  U.S.C. 1813(u)); and

13                  “(2) with respect to an insured credit  
14                  union, has the meaning given it in section  
15                  206(r) of the Federal Credit Union Act (12  
16                  U.S.C. 1786(r)).

17                  “‘insured credit union’ has the meaning given it  
18                  in section 101(7) of the Federal Credit Union Act (12  
19                  U.S.C. 1752(7)).

20                  “‘insured depository institution’—

21                  “(A) has the meaning given it in section  
22                  3(c)(2) of the Federal Deposit Insurance Act (12  
23                  U.S.C. 1813(c)(2)); and

24                  “(B) includes an insured credit union (ex-  
25                  cept as provided in the definition of ‘Federal de-

1        *pository institutions regulatory agency’ and in*  
2        *subparagraph (B) of the definition of ‘institu-*  
3        *tion-affiliated party’).*

4        “‘intellectual property’ means—

5                “(A) a trade secret;

6                “(B) an invention, process, design, or plant  
7        *protected under title 35;*

8                “(C) a patent application;

9                “(D) a plant variety;

10               “(E) a work of authorship protected under  
11        *title 17; and*

12               “(F) a mask work protected under chapter  
13        *9 of title 17, to the extent protected by applicable*  
14        *nonbankruptcy law.*

15        “‘judicial lien’ means a lien obtained by judg-  
16        *ment, levy, sequestration, or other legal or equitable*  
17        *process or proceeding.*

18        “‘lien’ means a charge against or interest in  
19        *property to secure payment of a debt or performance*  
20        *of an obligation.*

21        “‘margin payment’, as used in sections  
22        *362(b)(6), 546 (e) and (f), 548 (d)(2) (B) and (C),*  
23        *556, 741(5), 761(15), 764(b), 766(a), and any other*  
24        *provision of this title in relation to forward contracts,*  
25        *means a payment or deposit of cash, a security, or*

1     *other property that is commonly known in the for-*  
2     *ward contract trade as original margin, initial mar-*  
3     *gin, maintenance margin, or variation margin, in-*  
4     *cluding market-to-market payments or variation pay-*  
5     *ments.*

6             *“‘mask work’ has the meaning given it in sec-*  
7     *tion 901(a)(2) of title 17.*

8             *“‘municipality’ means a political subdivision or*  
9     *public agency or instrumentality of a State.*

10            *“‘person’ includes an individual, partnership,*  
11     *and corporation, but does not include a governmental*  
12     *unit, except that a governmental unit that acquires*  
13     *an asset from a person as a result of operation of a*  
14     *loan guarantee agreement, or as receiver or liquidat-*  
15     *ing agent of a person, shall be considered to be a per-*  
16     *son for purposes of section 1102.*

17            *“‘petition’ means a petition filed under section*  
18     *301, 302, 303, or 304 commencing a case under this*  
19     *title.*

20            *“‘purchaser’ means a transferee of a voluntary*  
21     *transfer, and includes an immediate or mediate*  
22     *transferee of such a transferee.*

23            *“‘railroad’ means a common carrier by railroad*  
24     *engaged in the transportation of individuals or prop-*

1       erty or owner of trackage facilities leased by such a  
2       common carrier.

3               “‘relative’ means an individual related by affini-  
4       ty or consanguinity within the third degree as deter-  
5       mined by the common law and an individual in a  
6       step or adoptive relationship within such third degree.

7               “‘repo participant’ means an entity that, on  
8       any day during the period beginning 90 days before  
9       the date of the filing of a petition, has an outstanding  
10      repurchase agreement with the debtor.

11              “‘repurchase agreement’ and ‘reverse repurchase  
12      agreement’ mean an agreement, including related  
13      terms, which provides for the transfer of certificates of  
14      deposit, eligible bankers’ acceptances, or securities  
15      that are direct obligations of, or that are fully guar-  
16      anteed as to principal and interest by, the United  
17      States or any agency of the United States against the  
18      transfer of funds by the transferee of such certificates  
19      of deposit, eligible bankers’ acceptances, or securities  
20      with a simultaneous agreement by such transferee to  
21      transfer to the transferor thereof certificates of deposit,  
22      eligible bankers’ acceptances, or securities as described  
23      above, at a date certain not later than 1 year after  
24      such transfers or on demand, against the transfer of  
25      funds.

1           “‘security’—

2               “(A) includes—

3                   “(i) a note;

4                   “(ii) stock;

5                   “(iii) treasury stock;

6                   “(iv) a bond;

7                   “(v) a debenture;

8                   “(vi) a collateral trust certificate;

9                   “(vii) a preorganization certificate or  
10 subscription;

11                   “(viii) a transferable share;

12                   “(ix) a voting-trust certificate;

13                   “(x) a certificate of deposit;

14                   “(xi) a certificate of deposit for secu-  
15 rity;

16                   “(xii) an investment contract or cer-  
17 tificate of interest or participation in a  
18 profit-sharing agreement or in an oil, gas,  
19 or mineral royalty or lease, if such contract  
20 or interest is required to be the subject of a  
21 registration statement filed with the Securi-  
22 ties and Exchange Commission under the  
23 provisions of the Securities Act of 1933 (15  
24 U.S.C. 77a et seq.), or is exempt under sec-  
25 tion 3(b) of that Act (15 U.S.C. 77c(b))

1           *from the requirement to file such a state-*  
2           *ment;*

3           “(xiii) *an interest of a limited partner*  
4           *in a limited partnership;*

5           “(xiv) *another claim or interest com-*  
6           *monly known as a ‘security’; and*

7           “(xv) *a certificate of interest or par-*  
8           *ticipation in, temporary or interim certifi-*  
9           *cate for, receipt for, or warrant or right to*  
10          *subscribe to or purchase or sell, a security;*  
11          *but*

12          “(B) *does not include—*

13           “(i) *currency or a check, draft, bill of*  
14           *exchange, or bank letter of credit;*

15           “(ii) *a leverage transaction (as defined*  
16           *in section 761);*

17           “(iii) *a commodity futures contract or*  
18           *forward contract;*

19           “(iv) *an option, warrant, or right to*  
20           *subscribe to or purchase or sell a commodity*  
21           *futures contract;*

22           “(v) *an option to purchase or sell a*  
23           *commodity;*

24           “(vi) *a contract or certificate of a kind*  
25           *specified in subparagraph (A)(xii) that is*

1           *not required to be the subject of a registra-*  
2           *tion statement filed with the Securities and*  
3           *Exchange Commission and is not exempt*  
4           *under section 3(b) of the Securities Act of*  
5           *1933 (15 U.S.C. 77c(b)) from the require-*  
6           *ment to file such a statement; or*

7           *“(vii) debt or an evidence of indebted-*  
8           *ness for goods sold and delivered or services*  
9           *rendered.*

10           *“‘security agreement’ means an agreement that*  
11           *creates or provides for a security interest.*

12           *“‘securities clearing agency’ means a person that*  
13           *is registered as a clearing agency under section 17A*  
14           *of the Securities Exchange Act of 1934 (15 U.S.C.*  
15           *78q-1) or whose business is confined to the perform-*  
16           *ance of functions of a clearing agency with respect to*  
17           *exempted securities (as defined in section 3(a)(12) of*  
18           *that Act (15 U.S.C. 78c(12)) for the purposes of that*  
19           *section 17A.*

20           *“‘security interest’ means a lien created by an*  
21           *agreement.*

22           *“‘settlement payment’ means, for purposes of the*  
23           *forward contract provisions of this title, a prelimi-*  
24           *nary settlement payment, partial settlement payment,*  
25           *interim settlement payment, settlement payment on*



1     *account, final settlement payment, net settlement pay-*  
 2     *ment, or any other similar payment commonly used*  
 3     *in the forward contract trade.*

4             *“‘State’ includes the District of Columbia and*  
 5     *Puerto Rico, except for the purpose of defining who*  
 6     *may be a debtor under chapter 9.*

7             *“‘statutory lien’ means a lien arising solely by*  
 8     *force of a statute on specified circumstances or condi-*  
 9     *tions, or lien of distress for rent, whether or not statu-*  
 10    *tory, but does not include a security interest or judi-*  
 11    *cial lien, whether or not such interest or lien is pro-*  
 12    *vided by or is dependent on a statute and whether or*  
 13    *not such interest or lien is made fully effective by*  
 14    *statute.*

15            *“‘stockbroker’ means a person—*

16                 *“(A) with respect to which there is a cus-*  
 17                 *tomers (as defined in section 741); and*

18                 *“(B) that is engaged in the business of*  
 19                 *effecting transactions in securities—*

20                         *“(i) for the account of others; or*

21                         *“(ii) with members of the general pub-*  
 22                         *lic, from or for such person’s own account.*

23            *“‘swap agreement’ means—*

24                 *“(A) an agreement (including terms and*  
 25                 *conditions incorporated by reference therein)*

1        *which is a rate swap agreement, basis swap, for-*  
2        *ward rate agreement, commodity swap, interest*  
3        *rate option, forward foreign exchange agreement,*  
4        *rate cap agreement, rate floor agreement, rate*  
5        *collar agreement, currency swap agreement,*  
6        *cross-currency rate swap agreement, currency*  
7        *option, or any other similar agreement (includ-*  
8        *ing any option to enter into any of the fore-*  
9        *going);*

10        *“(2) any combination of the foregoing; or*

11        *“(3) a master agreement for any of the fore-*  
12        *going together with all supplements.*

13        *“‘swap participant’ means an entity that, at*  
14        *any time before the filing of a petition, has an out-*  
15        *standing swap agreement with the debtor.*

16        *“‘timeshare interest’ means an interest pur-*  
17        *chased in a timeshare plan which grants the pur-*  
18        *chaser the right to use and occupy accommodations,*  
19        *facilities, or recreational sites, whether improved or*  
20        *unimproved, pursuant to a timeshare plan.*

21        *“‘timeshare plan’ means an interest in any ar-*  
22        *rangement, plan, scheme, or similar device (but not*  
23        *including an exchange program), whether by member-*  
24        *ship, agreement, tenancy in common, sale, lease, deed,*  
25        *rental agreement, license, right to use agreement, or*

1     *by any other means, whereby a purchaser of the inter-*  
 2     *est, in exchange for consideration, receives a right to*  
 3     *use accommodations, facilities, or recreational sites,*  
 4     *whether improved or unimproved, for a specific pe-*  
 5     *riod of time less than a full year during any given*  
 6     *year, but not necessarily for consecutive years, and*  
 7     *which extends for a period of more than 3 years.*

8             *“‘transfer’ means a mode, direct or indirect, ab-*  
 9     *solute or conditional, voluntary or involuntary, of*  
 10    *disposing of or parting with property or with an in-*  
 11    *terest in property, including retention of title as a se-*  
 12    *curity interest and foreclosure of the debtor’s equity of*  
 13    *redemption.*

14            *“‘United States’, when used in a geographical*  
 15    *sense, includes all locations where the judicial juris-*  
 16    *isdiction of the United States extends, including terri-*  
 17    *tories and possessions of the United States.*

18    *(b) REFERENCES TO DEFINITIONS IN TITLE XI.—*

19            *(1) SECTION 362.—Section 362(b) of title 11,*  
 20    *United States Code, is amended—*

21                    *(A) in paragraph (6)—*

22                            *(i) by striking “section 761(4)” and*  
 23                            *inserting “section 761”;*

24                            *(ii) by striking “section 741(7)” and*  
 25                            *inserting “section 741”;*

1                   (iii) by striking “section 101(34),  
2                   741(5), or 761(15)” and inserting “section  
3                   101, 741, or 761”; and

4                   (iv) by striking “section 101(35) or  
5                   741(8)” and inserting “section 101 or 741”;  
6                   and

7                   (B) in paragraph (7)—

8                   (i) by striking “section 741(5) or  
9                   761(15)” and inserting “section 741 or  
10                  761”; and

11                  (ii) by striking “section 741(8)” and  
12                  inserting “section 741”.

13                  (2) *SECTION 507.*—Section 507(a)(5) of title 11,  
14                  United States Code, is amended—

15                  (A) by striking “section 557(b)(1)” and in-  
16                  serting “section 557(b)”; and

17                  (B) by striking “section 557(b)(2)” and in-  
18                  serting “section 557(b)”.

19                  (3) *Section 546* of title 11, United States Code,  
20                  is amended—

21                  (A) in subsection (e)—

22                  (i) by striking “section 101(34),  
23                  741(5), or 761(15)” and inserting “section  
24                  101, 741, or 761”; and

1                   (ii) by striking “section 101(35) or  
2                   741(8)” and inserting “section 101 or 741”;  
3                   and

4                   (B) in subsection (f)—

5                   (i) by striking “section 741(5) or  
6                   761(15)” and inserting “section 741 or  
7                   761”; and

8                   (ii) by striking “section 741(8)” and  
9                   inserting “section 741”.

10               (4) *SECTION 548.*—Section 548(d)(2) of title 11,  
11               *United States Code*, is amended—

12                   (A) in subparagraph (B)—

13                   (i) by striking “section 101(34), 741(5)  
14                   or 761(15)” and inserting “section 101,  
15                   741, or 761”; and

16                   (ii) by striking “section 101(35) or  
17                   741(8)” and inserting “section 101 or 741”;  
18                   and

19                   (B) in subparagraph (C)—

20                   (i) by striking “section 741(5) or  
21                   761(15)” and inserting “section 741 or  
22                   761”; and

23                   (ii) by striking “section 741(8)” and  
24                   inserting “section 741”.

1           (5) *SECTION 555.*—Section 555 of title 11, United States Code, is amended by striking “section 741(7)” and inserting “section 741”.

4           (6) *SECTION 556.*—Section 556 of title 11, United States Code, is amended by striking “section 761(4)” and inserting “section 761”.

7           (c) *REFERENCES TO DEFINITIONS IN OTHER LAWS.*—

8           (1) *FEDERAL CREDIT UNION ACT.*—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

11           (A) in clause (ii)(I) by striking “section 741(7)” and inserting “section 741”;

13           (B) in clause (iii) by striking “section 101(24)” and inserting “section 101”;

15           (C) in clause (iv)(I) by striking “section 101(41)” and inserting “section 101”; and

17           (D) in clause (v) by striking “section 101(50)” and inserting “section 101”.

19           (2) *FEDERAL DEPOSIT INSURANCE ACT.*—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

22           (A) in clause (ii)(I) by striking “section 741(7)” and inserting “section 741”;

24           (B) in clause (iii) by striking “section 761(4)” and inserting “section 761”;

1           (C) in clause (iv) by striking “section  
2           101(24)” and inserting “section 101”;

3           (D) in clause (v)(I) by striking “section  
4           101(41)” and inserting “section 101”; and

5           (E) in clause (viii) by striking “section  
6           101(50)” and inserting “section 101”.

7           (d) *OTHER TECHNICAL AMENDMENTS.*—Title 11 of the  
8           United States Code is amended—

9           (1) in section 322(a) by striking “1302, or 1202”  
10          and inserting “1202, or 1302”,

11          (2) in section 346—

12           (A) in subsection (a) by striking “Internal  
13           Revenue Code of 1954 (26 U.S.C. 1 et seq.)” and  
14           inserting “Internal Revenue Code of 1986”; and

15           (B) in subsection (g)(1)(C) by striking “In-  
16           ternal Revenue Code of 1954 (26 U.S.C. 371)”  
17           and inserting “Internal Revenue Code of 1986”;

18          (3) in section 348—

19           (A) in subsection (b) by striking “728(a),  
20           728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c),  
21           1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a),  
22           1201(a), 1221, and 1228(a)” and inserting “728  
23           (a) and (b), 1021, 1028, 1102(a), 1110(a)(1),  
24           1121 (b) and (c), 1141(d)(4), 1146 (a) and (b),

1           1201(a), 1221, 1228(a), 1301(a), and 1305(a)”;  
2           and

3                 (B) in subsections (b), (c), (d), and (e) by  
4           striking “1307, or 1208” each place it appears  
5           and inserting “1208, or 1307”;

6           (4) in section 349(a) by striking “109(f)” and  
7           inserting “109(g)”;

8           (5) in section 362(b)—

9                 (A) by striking “or” at the end of para-  
10          graph (10);

11                (B) in paragraph (12) by striking “the  
12          Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et  
13          seq.)” and inserting “section 31325 of title 46,  
14          United States Code”;

15                (C) in paragraph (13)—

16                   (i) by striking “the Ship Mortgage Act,  
17                  1920 (46 App. U.S.C. 911 et seq.)” and in-  
18                  serting “section 31325 of title 46, United  
19                  States Code”; and

20                   (ii) by striking “or” at the end;

21                 (D) in paragraph (14), as added by section  
22          102 of Public Law 101–311 (104 Stat. 267) at  
23          the end of the subsection, by removing it from the  
24          end of the subsection, inserting it after para-



1       graph (13), and striking the period at the end  
2       and inserting a semicolon; and

3               (E) by redesignating paragraphs (14), (15),  
4       and (16), as added by section 3007(a) of the Stu-  
5       dent Loan Default Prevention Initiative Act of  
6       1990 (104 Stat. 1388–28), as paragraphs (15),  
7       (16), and (17);

8               (6) in section 363(c)(1) by striking “1304, 1203,  
9       or 1204” and inserting “1203, 1204, or 1304”;

10              (7) in section 364(a) by striking “1304, 1203, or  
11       1204” and inserting “1203, 1204, or 1304”;

12              (8) in section 365—

13                   (A) in subsection (g)(2) (A) and (B) by  
14       striking “1307, or 1208” each place it appears  
15       and inserting “1208, or 1307”;

16                   (B) in subsection (n)(1)(B) by striking “to  
17       to” and inserting “to”; and

18                   (C) in subsection (o) by striking “the Fed-  
19       eral” the first place it appears and all that fol-  
20       lows through “successors,” and inserting “a Fed-  
21       eral depository institutions regulatory agency (or  
22       predecessor to such an agency)”;

23              (9) in section 507—

24                   (A) in subsection (a)(8) by striking “the  
25       Federal” the first place it appears and all that

1 follows through “successors,” and inserting “a  
 2 Federal depository institutions regulatory agency  
 3 (or predecessor to such an agency)”; and

4 (B) in subsection (d) by striking “(a)(3),  
 5 (a)(4), (a)(5), or (a)(6)” and inserting “(a) (3),  
 6 (4), (6), or (7)”;

7 (10) in section 522(d)(10)(E)(iii) by striking  
 8 “401(a), 403(a), 403(b), 408, or 409 Internal Revenue  
 9 Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408,  
 10 or 409)” and inserting “section 401(a), 403 (a) or  
 11 (b), 408, or 409 of the Internal Revenue Code of  
 12 1986”;

13 (11) in section 523(a) —

14 (A) in subsection (a)—

15 (i) by striking “1141,, 1228(a),  
 16 1228(b),” and inserting “1141, 1228 (a) or  
 17 (b),”; and

18 (ii) in paragraph (12) by striking the  
 19 semicolon at the end and inserting a period;  
 20 and

21 (B) in subsection (e) by striking “depository  
 22 institution or insured credit union” and insert-  
 23 ing “insured depository institution”;

24 (12) in section 524—

1           (A) in subsection (a)(3) by striking “or  
2           1328(c)(1)” and inserting “1228(a)(1), or  
3           1328(a)(1)”;

4           (B) in subsection (c)(4) by striking  
5           “recission” and inserting “rescission”; and

6           (C) in subsection (d)(1)(B)(ii) by adding  
7           “and” at the end;

8           (12) in section 541(b)(3) by striking the period  
9           at the end of paragraph (3) and inserting “; or”;

10          (13) in section 542(e) by striking “to to” and in-  
11          serting “to”;

12          (14) in section 543(d)(1) by striking “of equity”  
13          and inserting “if equity”;

14          (15) in section 546(a)(1) by striking “1302, or  
15          1202” and inserting “1202, or 1302”;

16          (16) in section 549(b) by inserting “the trustee  
17          may not avoid under subsection (a) of this section”  
18          after “involuntary case,”;

19          (17) in section 553—

20               (A) in subsection (a)(1) by striking “other  
21               than under section 502(b)(3) of this title”; and

22               (B) in subsection (b)(1) by striking  
23               “362(b)(14),” and inserting “362(b)(14),”;

24          (18) in section 706(a) by striking “1307, or  
25          1208” and inserting “1208, or 1307”;

1           (19) in section 724(d) by striking “Internal Rev-  
2       enue Code of 1954 (26 U.S.C. 6323)” and inserting  
3       “Internal Revenue Code of 1986”;

4           (20) in section 726(b) by inserting a comma  
5       after “section 1112”;

6           (21) in section 743 by striking “342(a)” and in-  
7       serting “342”;

8           (22) in section 745(c) by striking “Internal Rev-  
9       enue Code of 1954 (26 U.S.C. 1 et seq.)” and insert-  
10      ing “Internal Revenue Code of 1986”;

11          (23) in section 1104(c) inserting a comma after  
12      “interest”;

13          (24) in section 1123(a)(1) inserting a comma  
14      after “title” the last place it appears;

15          (25) in section 1129(a)—

16              (A) in paragraph (4) by striking the semi-  
17          colon at the end and inserting a period; and

18              (B) in paragraph (12) inserting “of title  
19          28” after “section 1930”;

20          (26) in section 1145(a) by striking “does” and  
21      inserting “do”;

22          (27) in section 1226(b)(2)—

23              (A) by striking “1202(d) of this title” and  
24      inserting “1202(c)”;

1           (B) by striking “1202(e) of this title” and  
 2           inserting “1202(d)”;

3           (28) in section 1302(b)(3) by striking “and” at  
 4           the end;

5           (29) in section 1328(a)(2) by striking “(5) or  
 6           (8)” and inserting “(5), (8), or (9)”; and

7           (30) in the table of chapters by striking the item  
 8           relating to chapter 15.

9   **SEC. 502. TITLE 28, UNITED STATES CODE.**

10       Section 586(a)(3) of title 28, United States Code, is  
 11       amended in the matter preceding subparagraph (A) by in-  
 12       serting “12,” after “11,”.

13   **TITLE VI—SEVERABILITY; EFFEC-**  
 14       **TIVE DATE; APPLICATION OF**  
 15       **AMENDMENTS**

16   **SEC. 601. SEVERABILITY.**

17       If any provision of this Act or amendment made by  
 18       this Act or the application of such provision or amendment  
 19       to any person or circumstance is held to be unconstitu-  
 20       tional, the remaining provisions of and amendments made  
 21       by this Act and the application of such other provisions  
 22       and amendments to any person or circumstance shall not  
 23       be affected thereby.

1 **SEC. 602. EFFECTIVE DATE; APPLICATION OF AMEND-**  
 2 **MENTS.**

3 (a) *EFFECTIVE DATE.*—Except as provided in sub-  
 4 section (b), this Act and the amendments made by this Act  
 5 shall take effect on the date of enactment of this Act.

6 (b) *APPLICATION OF AMENDMENTS.*—

7 (1) *IN GENERAL.*—Except as provided in section  
 8 115(c) and in paragraph (2) of this subsection, the  
 9 amendments made by this Act shall not apply with  
 10 respect to cases commenced under title 11, United  
 11 States Code, before the date of enactment of this Act.

12 (2) *SECTION 1110 OF TITLE 11.*—Section 1110 of  
 13 title 11, United States Code, as amended by section  
 14 203, shall apply with respect to any lease (as defined  
 15 in section 1110(c)), entered into in connection with a  
 16 settlement of any litigation in any case pending  
 17 under title 11, United States Code, on the date of en-  
 18 actment of this Act.

S 540 RS—2

S 540 RS—3

S 540 RS—4

S 540 RS—5

S 540 RS—6

S 540 RS—7

S 540 RS—8

S 540 RS—9

S 540 RS——10